Par. S.2.1.1.52
836

Volume I
No. 1 — 21

Friday
18th July, 1952

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Part I - Questions and Answers)

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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

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Friday, 18th July, 1952

The House met at a Quarter Past Eight of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

ANTI-SMUGGLING DEVICES

*1858. **Sardar Hukam Singh:** (a) Will the Minister of **Natural Resources and Scientific Research** be pleased to state whether the National Physical Laboratory, Delhi, has evolved any anti-smuggling devices recently?

(b) If so, what are those devices and have they been tried anywhere?

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) and (b). Yes, Sir. The National Physical Laboratory has evolved an electronic device which can be used by officers engaged in anti-smuggling work for detecting gold and other precious metals. This instrument is being tried out at the Delhi Air-ports and at the Customs House, Calcutta.

Sardar Hukam Singh: What was the quantity or value of the metals that were discovered by their use?

Shri K. D. Malaviya: I do not know the quantity of metal that was discovered. I may inform hon. Members that it is still in the experimental stage. Different models of this apparatus have been devised and we are still trying to find which is the best.

Sardar Hukam Singh: Would it discover all metals or only particular metals within a certain distance?

Shri K. D. Malaviya: Specially precious metals.

Sardar Hukam Singh: Was the aid of this laboratory sought by the Housing Factory in Delhi in diagnosing the causes of its failure?

Mr. Speaker: Order, order; we will go to the next question.

RECRUITMENT TO TECHNICAL UNITS

*1859. **Sardar Hukam Singh:** (a) Will the Minister of **Defence** be pleased to state whether recruitment to the Technical units of the Territorial Army has been satisfactory?

(b) What steps have been taken to stimulate recruitment to these units?

The Minister of Defence (Shri Gopalaswami): (a) It has not been satisfactory.

(b) I would invite attention to the answer given on 25th June 1952 to Starred Question No. 1156.

Sardar Hukam Singh: May I know whether a large number of those who volunteered to be recruited were rejected on certain grounds?

Shri Gopalaswami: I am not sure that they were a large number. I am afraid I have not got the figures of rejection.

Sardar Hukam Singh: May I know whether the documentary film prepared for the Territorial Army is being shown in various parts of the country, still?

Shri Gopalaswami: Yes.

Sardar Hukam Singh: What are the chief languages in which this film has been prepared?

Shri Gopalaswami: These films are in various languages. They cost a good sum of money. But, I think they cover most of the important languages in the country.

Shri V. P. Nayar: May I know the number of technical personnel recruited from industrial labour?

Shri Gopalaswami: I have no separate figures for industrial labour as such.

Shri Velayudhan: May I know the chief reasons for this unsatisfactory progress in the recruitment: whether it is because of lack of technical personnel in the country or lack of publicity and other methods used by the Department?

Shri Gopalaswami: Publicity has been very vigorously pursued. But, the real difficulty has been two-fold: one, a certain amount of reluctance on the part of possible entrants into the Territorial Force and the other a certain amount of reluctance on the part of employers to release personnel, the common ground between the two being the difference in the remuneration they get in private service and what they get on being enrolled in the Territorial Force.

Shri Bogawat: May I know if recruitment to the Territorial Force is increasing as compared to 1951?

Shri Gopalaswami: Certainly it is increasing.

Shri A. C. Guha: May I know if the amendment made in the original Act last year has led to any improvement in the situation?

Shri Gopalaswami: It is too soon to say that. There has been a certain improvement even within the few months it has been in force.

Sardar Hukam Singh: May I know the number of units that have had to be changed from urban to provincial units because of this unsatisfactory response in recruitment in the urban areas?

Shri Gopalaswami: I am afraid I shall require notice of that.

Shri A. C. Guha: Is it true that intending candidates are not given proper facilities even in Government offices as employers?

Shri Gopalaswami: Government offices have all been circularised to see that there are no impediments created.

Shri Kelappan: Is it because the service conditions are not sufficiently attractive?

Shri Gopalaswami: The emoluments they get in the Territorial Force are in many cases less than the emoluments they get in private service. There is a difference. There is also a certain amount of uncertainty as to whether these people after getting back from the Territorial Force would be put back in their previous employment. As hon. Members know, we have passed legislation so far as the latter aspect is concerned. With regard to the former, we can only make appeals. We have made appeals to both the private employers and Chambers of Commerce and Government departments.

SURVEY OF INDIAN COAST LINE

***1862. Shri Shivananjappa:** Will the Minister of **Defence** be pleased to state:

(a) whether a survey of Indian Coast line and approaches to harbours and ports has been conducted by Marine Survey of India; and

(b) if so, whether the details of the Survey will be placed on the Table?

The Minister of Defence (Shri Gopalaswami): (a) Yes, such a survey is being undertaken.

(b) The survey records are bulky and cannot conveniently be placed on the Table. Certain of them, *e.g.*, Charts, are available for sale.

Shri Shivananjappa: In the light of the survey, may I know what are the proposals of the Government for the development of Bhatkal and Malpe on the West Coast?

Shri Gopalaswami: Is the hon. Member's question regarding their development as ports?

Shri Shivananjappa: Yes.

Shri Gopalaswami: That is a question which ought to be addressed to the Transport Ministry.

Shri B. Shiva Rao: May I know whether this survey applies only to the coast line strictly speaking or does it also take into account islands both in the Bay of Bengal and the Arabian Sea.

Shri Gopalaswami: It is mainly concerned with the coast line. Whether any particular islands come within the survey of the coast line, is a matter which I should like to look into.

GRANTS TO UNIVERSITIES

***1865. Shri S. N. Das:** Will the Minister of **Education** be pleased to state:

(a) the terms and conditions which the Universities are required to fulfil for receiving grants for the development of scientific and technical education; and

(b) the names of Universities which have so far received such grants giving the amount in each case.

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) For receiving grants for Scientific Education, Universities have to satisfy that assistance is reouired mainly for the purchase of equipment either.

(i) for the improvement or expansion of facilities in active Research Departments having properly qualified staff and adequate accommodation; or

(ii) for the establishment of new Departments considered essential for postgraduate development, a substantial portion of the cost of such development being met by the University from other sources.

Grants for Technical Education are given on the recommendations of the All India Council for Technical Education and are governed by the principles stated in my reply to question No. 859 given on the 16th June, 1952.

(b) A statement is laid on the Table of the House. [*See* Appendix IX, annexure No. 5.]

Shri S. N. Das: Two statements have been laid on the Table of the House, one regarding grants paid to Universities for improvements and expansion of postgraduate and research departments, and the other regarding grants paid to various Universities for strengthening their Engineering and Technological Institutes. May I know whether applications were invited or are invited when the question of grants is considered.

Shri K. D. Malaviya: Sir, these grants to the Universities are being made from 1949-50 as a result of the recommendations of the Scientific Manpower Committee relating to such developments. Such schemes are received from the Universities and examined by the Ministry.

Shri S. N. Das: I wanted to know whether the Universities are asked to submit their requirements and whether they are asked to apply for these grants.

Shri K. D. Malaviya: There are two types of grants as will be indicated by these charts. One of them is granted by the Ministry on the recommendation of the All-India Council of Technical Education, and the other I am not sure, but perhaps these Universities make direct representation to the Ministry.

Shri S. N. Das: May I know, Sir, whether there is any Board or Committee which decides the grants?.

Shri K. D. Malaviya: The Ministry does it.

Shri S. N. Das: My question is whether the Ministry has appointed a Committee or individual officers to decide these things.

Shri K. D. Malaviya: I will require notice.

श्री एम० एल० द्विवेदी : क्या माननीय मंत्री यह बतलाने की कृपा करेंगे कि अलीगढ़ विश्वविद्यालय ने जो गांधी आई हास्पिटल में आप्थैलमालाजी के विषय पर एक शाखा खोलने का विचार किया था उस सम्बाध में बिल्डिग बनाने के लिए उन के द्वारा कोई प्रार्थना की गई है? और अगर की गई है तो सरकार ने क्या निर्णय किया ?

श्री के० डी० मालवीय : मुझे इस विशेष सहायता की इस समय कोई सूचना नहीं है :

श्री गणपति राम : क्या माननीय मंत्री बतला सकते हें कि बनारस हिन्दू यूनिवर्सिटी में टैक्निकल ऐजूकेशन के विकास के लिए कितना रुपया दिया गया है ?

श्री के० डी० मालवीय : वह इस खाते में आप को मालूम हो जायगा। मगर मैं माननीय सदस्य को यह सूचित करूंगा कि बनारस यूनिवर्सिटी को इस के अतिरिक्त इमारतों के लिए कुछ और भी सहायता प्रदान की गई है।

Shri S. S. More: May I ask the Minister what grants have been given to the Poona University for this purpose?

Shri K. D. Malaviya: For the expansion of postgraduate and research studies, the table indicates that the Poona University got Rs. 430,000.

Shri S. S. More: And what were the.........

Mr. Speaker: He may refer to the statement.

Shri Sarangadhar Das: May I know, Sir, if any grant has been given to the Banaras Hindu University for the development of the College of Agriculture?

Shri K. D. Malaviya: I have no particular information.

Shri S. N. Das: From the statement it appears, Sir, that some of the Universities have been given grants in lakhs while the two Universities of Patna and Rajputana have been given very small sums. May I know, Sir, if there are any special reasons for that?

Shri K. D. Malaviya: I have already stated the guiding principles which are before us for making these grants.

CENTRAL INSTITUTE OF EDUCATION

*1867. **Shri S. C. Samanta**: Will the Minister of **Education** be pleased to state:

(a) what are the results of the researches carried out and experiments conducted by the Central Institute of Education since its inception; and

(b) whether the M. Ed. training imparted in the Institute has any speciality in relation to that imparted in other Universities?

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) It is too early to say anything about the results that have been achieved. A statement, however, of the work done and now being done is placed on the Table of the House. [*See* Appendix IX, annexure No. 6.]

(b) M. Ed. is a research degree in Education in all Indian Universities. The distinguishing features of the course at this Institute are (i) a compulsory course on methodology of Educational research; (ii) undertaking of a research project by every M. Ed. student; and (iii) essential laboratory training.

श्री एस० सी० सामन्त : माननीय मंत्री जी बोले हैं कि यह आल इंडिया इंस्टीट्यूट है। क्या मैं जान सकता हूं कि दूसरी स्टेट्स से छात्रों का प्रवेश किया जाता है या नहीं और कोई स्कालरशिप दी जाती है या नहीं ?

श्री के० डी० मालवीय : मेरे पास इस की तो कोई सूचना नहीं है कि दूसरे किसी प्रदेश से विद्यार्थियों को यहां भरती नहीं किया गया, लेकिन मेरे पास उन की संख्य है।

श्री एस० सी० सामन्त : क्या गवर्नमेंट का कोई प्रस्ताव है कि ऐसे दूसरी स्टेट्स के छात्रों को प्रवेशपत्र दिया जाय क्योंकि हमें जो स्टेटमेंट मिला है उस में हम देखते हैं कि जिस किस्म का रिसर्च का काम यह करते हैं उस में यह छात्र लोग साथ दे सकते हैं।

श्री के० डी० मालवीय : अध्यक्ष महोदय मेरी समझ में यह प्रश्न नहीं आया।

Mr. Speaker: If I understood him properly, the statement says that this particular Board is giving help to foreign scholars also. So he wants to know the number of those scholars.

Shri K. D. Malaviya: The table that is before me does not indicate that there are any foreign scholars.

Mr. Speaker: Does it not say……. .

Shri S. C. Samanta: I wanted to know whether this institution is giving facilities to students for B. T. and M. Ed. courses here, and whether facilities are being given to them for being attached to the research works done by the fellows and students themselves. May I know, Sir, whether Government has any proposal before it to allow the students from other States with scholarships?

Shri K. D. Malaviya: If the hon. Member will send such a suggestion to the Ministry, we will consider it

Shri T. S. A. Chettiar: May I know whether all the educational research done by Government is being done in the Institute here or with the help of educational research in other provinces and states?

Shri K. D. Malaviya: As I have mentioned, all the Universities have got this facility. Here we have recently started the M. Ed. classes for carrying on more extensive research.

Shri T. S. A. Chettiar: The question was whether the Government of India help the efforts that are made elsewhere.

Shri K. D. Malaviya: I do not know if any specific help is given to other Universities.

Dr. P. S. Deshmukh: Would the hon. Minister tell us the non-recurring expenditure in regard to this Institute so far, and what is the recurring expenditure?

Shri K. D. Malaviya: I will require notice.

Shri H. N. Mukerjee: Is it a fact that in this Institute there is a visiting professor from Chiang-kai Shek's China and that the Chinese Cultural Delegation which was here last year went to this Institute on a visit and left the place as a protest against the presence of this particular visiting professor?

Shri K. D. Malaviya: I have no information.

Dr. Jaisoorya: If this Central Institute is primarily a research institute, what is the percentage of the time which the staff devotes to research?

Shri K. D. Malaviya: I have not got the percentage here with me.

FOREIGN AID

***1868. Prof. Agarwal:** Will the Minister of **Finance** be pleased to state:

(a) the total amount of foreign assistance that the Government of India expect to receive during 1952-53; and

(b) the maximum amount of financial aid that the Government of India expect to receive from the U.S.A. for the fulfilment of the Five Year Plan?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). It is not possible to anticipate the amount of assistance likely to be received.

Prof. Agarwal: May I know whether the reduced Appropriation Bill of America affects in any way the agreements that have been already signed under the Indo-U. S. Technical Aid Scheme?

Shri C. D. Deshmukh: No, Sir. This is in respect of the year that has begun from 1st of July.

Prof. Agarwal: May I know whether any decisions have been reached regarding the recent negotiations for a loan from the World Bank for iron and steel works?

Shri C. D. Deshmukh: No, Sir. Negotiations are imminent.

Shri V. P. Nayar: May I know whether Government have any alternative proposals to finance the Five Year Plan in case Government do not get any further aid from United States of America or in case Government break with America?

Shri C. D. Deshmukh: We have not received the final edition of the Plan yet

COMMERCIAL AUDIT ORGANISATION

***1869. Shri K. C. Sodhia:** Will the Minister of **Finance** be pleased to state:

(a) what is the strength of the Commercial Audit Organisation under the heads (1) Officers, (2) non-gazetted staff;

(b) to what states are they posted at present; and

(c) whether the transactions relating to the procurement of food etc., are considered as commercial transactions; and if not, why not?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). There is at present no separate organisation for Commercial Audit as such in the Indian Audit and Accounts Department. The various Civil, Postal, Railway and Defence Audit Offices have to look after the audit of Government commercial organisations as part of their over-all functions. There being no separate staff, it is not possible to state the number of officers and staff employed solely on Commercial Audit.

With a view, however, to organising and building up separate commercial audit wings in the Audit Offices, the post of Commercial Audit Officer has been created in the office of the Comptroller and Auditor General with an Assistant Accounts Officer and six Subordinates.

(c) Yes, Sir.

Shri K. C. Sodhia: In which States **are they going to be posted?**

Shri C. D. Deshmukh: I shall require notice for that question, Sir.

EXPERT COMMITTEE (EXCISE)

***1870. Dr. Amin:** Will the Minister of **Finance** be pleased to state:

(a) whether any report has been submitted by the Expert Committee (Excise) which was appointed by the Government of India to make recommendations for bringing about uniformity in excise rules regulating the collection of duty on the manufacture, possession and sale of drugs and medicines; and

(b) if the answer to (a) above is in the affirmative, what action have Government taken or propose to take on these recommendations?

The Minister of State for Finance (Shri Tyagi): (a) Yes. The Expert Committee's Report has been received.

(b) In pursuance of certain interim recommendations made by the Committee, and with the concurrence of the State Governments, uniform rates of duty have been fixed for the "restricted" and "unrestricted" categories of medicinal and toilet preparations containing spirit, and no changes can be made in the lists of preparations falling under each of these categories without the approval of the Government of India.

Further action on the several recommendations in the Expert Committee's Report which are of a complex nature is under consideration.

Dr. Amin: Will the Government be pleased to lay on the Table of the House a report of that Expert Committee?

Shri Tyagi: Yes, Sir. With all pleasure, I shall lay it on the Table of the House.

SCIENTIFIC TERMINOLOGY

***1871. Shri Balwant Sinha Mehta:** Will the Minister of **Education** be pleased to state what are the basic principles on which the Scientific Terminology of national language is being prepared?

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): A statement giving the guiding principles which have so far been laid down by the Board of Scientific Terminology and the Philologists Committee is placed on the Table of the House. [*See* Appendix IX, annexure No. 7.]

Shri Balwant Sinha Mehta: May I know how many philologists are working there for regional languages, who are they and what are they paid for?

Shri K. D. Malaviya: There are ten Expert Committees dealing with the various sciences. The names of the members of the Committees are not with me now. The Committees are for Mathematics, Agriculture, Physics, Botany, Geology, Zoology, Medicine, Social Sciences, Administration, Chemistry and Defence Services.

Shri Balwant Sinha Mehta: I wanted to know the names of those who represent the regional languages.

Shri K. D. Malaviya: I shall require notice for that question.

Shri Balwant Sinha Mehta: May I know in which branches of science, the work has been undertaken, and by what time the courses of High School and College classes respectively are expected to be completed?

Shri K. D. Malaviya: The work has been undertaken, as I have said, in ten branches. The preparation of technological words for the Matriculation Examination are expected to be completed next year.

Dr. P. S. Deshmukh: May I know, Sir, if it is a fact that most of this work has already been completed in the State of Madhya Pradesh by Dr. Raghu Vira?

The Prime Minister (Shri Jawaharlal Nehru): Yes, we have a distant cognizance of that fact, but it has to be done all over again.

Shri Raghavaiah: Do Government contemplate the preparation of a lexicon of all the scientific terms?

Shri K. D. Malaviya: Yes, Sir.

श्री गणपति राम : क्या माननीय मंत्री बतला सकते हैं कि साइंटिफिक टर्मनौलिजी कमेटी में हर एक युनिवर्सिटियों के भी प्रतिनिधि रखे गये हैं, यदि हां, तो क्या कोई बनारस हिन्दू विश्वविद्यालय का भी प्रतिनिधि रखा गया है ?

श्री के० डी० मालवीय : जी नहीं, युनिवर्सिटियों के आधार पर उस में प्रतिनिधि नहीं रखे गये हैं ।

Shri T. S. A. Chettiar: May I know whether the Government have accepted as a guiding principle that they will adopt as far as possible international terminology?

Shri Jawaharlal Nehru: Yes, Sir. It is difficult to have any single guiding principle in this matter. We have so many other factors to consider. But in regard to scientific and technical terms, we want to use international words as far as possible, which have already come into common use in India.

Shri A. C. Guha: Has there been any attempt to see that similar terms may be taken in all the languages of India?

Shri Jawaharlal Nehru: That is the whole idea, namely the same international terms should be used as far as possible in the various languages in India.

Shri V. P. Nayar: May I know whether the scientific equivalents in the national language will be in simple language or whether they will also be in the classical tyrannical language?

Shri Jawaharlal Nehru: It is hoped that they will be as simple as possible, but certain technical terms are not very simple anyhow.

WRITTEN ANSWERS TO QUESTIONS

DEVELOPMENT OF FISHERIES

***1860. Dr. Ram Subhag Singh:** (a) Will the Minister of **Finance** be pleased to state whether the U.S. Government has allocated some grants for the development of fisheries in this country?

(b) If so, what is the total amount of money allocated for this purpose?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir.

(b) An amount of $ 2,462,000 has been allocated by the U. S. Government and about Rs. 69 lakhs by the Governments in India for this purpose. A copy of the Operational Agreement No. 5 in regard to this project was laid on the Table of the House in reply to Starred Question No. 713 on the 11th June, 1952.

बैंकों का निरीक्षण

***१८६३. सेठ गोविन्द दास :** क्या वित्त मंत्री उन अनुसूचित बैंकों की संख्या वतलाने की कृपा करेंगे जिन का १९५१-५२ में रिजर्व बैंक द्वारा निरीक्षण किया गया और नियमों का पालन न करने वाले बैंकों के विरुद्ध क्या कार्यवाही की गयी ?

The Minister of Finance (Shri C. D. Deshmukh): Forty-one scheduled banks were inspected by the Reserve Bank of India under various sections of the Banking Companies Act, 1949 during the financial year 1951-52. Minor defects were brought to the notice of the banks who were asked to rectify them. In the case of other irregularities, explanations of the banks were called for to enable the Reserve Bank to consider the action to be taken. No penal action has so far been taken in the case of any of these banks.

रिजर्व बैंक के परिपत्र

***१८६४. सेठ गोविन्ददास :** क्या वित्त मंत्री यह बतलाने की कृपा करेंगे :

(क) रिजर्व बैंक द्वारा मार्च १९५२ में अनुसूचित बैंकों के नाम निकाले गये ऐसे परिपत्रों की संख्या जिन में ऋण और अग्रिम धन के वारे निति निश्चित की गई हो या उस में परिवर्तन किये गये हों;

(ख) वाजार में मंदी आदि लाने मे इन पत्रों का कितना हाथ है ?

The Minister of Finance (Shri C. D. Deshmukh): (a) No such circular was issued by the Reserve Bank of India in March 1952.

(b) Does not arise.

MECHANISATION OF PROVIDENT FUND ACCOUNTS

***1866. Shri N. S. Nair:** Will the Minister of **Finance** be pleased to state:

(a) whether the chaotic state of the Provident Fund Accounts disclosed at page 33 of the Second Report of the Public Accounts Committee on the Accounts of 1948-49 has since been set right;

(b) whether all or any portion of it was due to mechanisation of accounts; and

(c) if so, what steps have been taken to prevent such mistakes in future?

The Minister of Finance (Shri C. D. Deshmukh): (a) As a result of various special measures taken by the Comptroller and Auditor General, the position has now greatly improved.

(b) The deterioration was due to a variety of causes, including failures in the offices drawing salary bills, and the confusion caused by the partition of India. The use of machines for accounting was also a contributory cause in some places.

(c) The troubles arising from the machines were that these often went out of order, and the dearth of spare parts combined with the lack of quick attention by mechanical experts caused frequent halts in work leading to arrears. The number of trained operators needed for the job was also not in adequate supply. The staff of mechanists has since been strengthened; additional machines have been purchased; better arrangements have been made to effect repairs, when necessary; and steps have been taken to train the staff to operate the machines. Improved methods of work have also been introduced.

भारतीय सेना

४५१. **सेठ गोविन्द दास** : क्या रक्षा मंत्री यह बतलाने की कृपा करेंगे कि ३१ मार्च १९५२ को भारतीय सेना में प्रत्येक राज्य के कितने प्रतिशत व्यक्ति थे ?

The Minister of Defence (Shri Gapalaswami): The information as on the 31st March 1952, is not readily available; information relating to the position as on the 31st December 1951 is laid on the Table of the House. [*See* Appendix IX, annexure No. 8.]

LOSS OF STORES IN THE DEFENCE DEPARTMENT

452. **Shri M. S. Gurupadaswamy:** Will the Minister of **Defence** be pleased to state:

(a) whether there has been any loss of stores in the Defence Department due to the negligence of the officers in the years 1948-49, 1949-50, 1950-51 and 1951-52; and

(b) if so, what action has been taken by Government against such officers?

The Minister of Defence (Shri Gopalaswami): (a) If the hon. Member will refer to the Appropriation Accounts of each year he will notice that losses due to theft, fraud or neglect are specially mentioned.

(b) In all cases of proved negligence appropriate disciplinary action is taken.

RESEARCH ON SOCIAL TENSIONS

453. **Shri Lokenath Mishra:** Will the Minister of **Education** be pleased to state how many research teams are there in India engaged in research on different aspects of social tensions and what is the sphere and scope of their research?

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): A statement is placed on the Table of the House. [*See* Appendix IX, annexure No. 9.]

DELHI PUBLIC LIBRARY

454. **Shri S. N. Das:** Will the Minister of **Education** be pleased to state:

(a) what are the activities so far undertaken by the Delhi Public Library started under the UNESCO Public Library scheme; and

(b) What is the number of neo-literates who received assistance in programme of social education?

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) The Delhi Public Library was opened to the Public on 1st November 1951 with Central Adult Library, Children's Department and Social Education Department. The activities of the various Departments are given in the attached Statement. [*See* Appendix IX, annexure No. 10.]

(b) 8,386 persons have availed themselves of the facilities provided by the Social Education Department of the Library.

The Library also collaborates with the Social Educational Department of the Delhi Municipal Committee in providing books for the neo-literates.

Dated......

THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

HOUSE OF THE PEOPLE

Friday, 18*th July*, 1952.

The House met at a Quarter Past Eight of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS
(*See Part I*)

8-42 A.M.

Jonab Amjad Ali (Goalpara-Garo Hills): We shall be interested to know from the hon. the Minister of States, whether he is in a position to give us the facts regarding the recent floods in Assam, and whether they have been making any attempts towards the restoration of the railway lines and the telephone lines that have been dislocated. What is the position of Assam now? Has it been connected with the rest of India by now?

The Minister of Home Affairs and States (Dr. Katju): I have asked for a telephonic report, and also written for a full report by post. The present news can be easily gathered from the newspapers.

PAPERS LAID ON THE TABLE

(1) AGREEMENT BETWEEN TRAVANCORE-COCHIN AND RESERVE BANK.

(2) AGREEMENT BETWEEN MADHYA BHARAT AND RESERVE BANK.

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the table of the House, under sub-section (2) of Section 21A of the Reserve Bank of India Act, 1934, a copy of each of the following Principal and Supplemental Agreements executed on the 30th June, 1952:—

(i) Agreement between the Rajpramukh of Travancore-Cochin and the Reserve Bank of India;

[*Placed in Library. See* No. P-31/52.]

(ii) Agreement between the Rajpramukh of Madhya Bharat and the Reserve Bank of India.

[*Placed in Library. See No.* P-32/52.]

ESSENTIAL GOODS (DECLARATION AND REGULATION OF TAX ON SALE OR PURCHASE) BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Minister of Finance (Shri C. D. Deshmukh): I beg to present the Report of the Select Committee on the Bill, to declare in pursuance of Clause (3) of Article 286 of the Constitution, certain goods to be essential for the life of the Community.

NOTARIES BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

Shri Pataskar (Jalgaon): I beg to present the report of the Select Committee on the Bill to regulate the profession of notaries.

PREVENTIVE DETENTION (SECOND AMENDMENT) BILL

Mr. Speaker: The House will now proceed with the further consideration of the motion that the Bill further to amend the Preventive Detention Act, 1950 be taken into consideration.

The Minister of Home Affairs and States (Dr. Katju): As the figures that I gave yesterday are based on the information available with me up to the 15th June 1952, I had an inquiry made by telephone from Bengal yesterday. I am informed that no one who professes to be a member of the Communist Party is now in jail there, and all people who we

[Dr. Katju]

parole have been formally released. 47 of the members of the Revolutionary Communist Party who are not accepted by the Communist party of India as genuine communists, are in jail. The net result of that will be that throughout the length and breadth of India there will be Communists of all varieties—Lal Communists and other varieties—altogether 13. I do not know whether any of them are accepted by my friends opposite as belonging to their groups. Now, I have some figures here, beginning from January 1951 up to the end of May 1952, showing with one or two exceptions, the gradual decline in the number of people under detention, and with some confidence I attribute this gradual decline to the very cautious, very prudent, and may I add, very abstemious use of the provisions of the Preventive Detention Act. And the House, I do hope, will agree with me that much of the improvement that we now find today in the law and order position—I withdraw these words—in the peace and tranquility position in India is due to the wise use of the Preventive Detention Act. And I go a little further—and very likely this sentiment will not be shared by some Members opposite—I do suggest that if the Preventive Detention Act were not to exist on our Statute-book, the results may be very harmful and the situation may very well deteriorate.

It is often that the fear of God keeps man from committing evil deeds, but much oftener it is the fear of man which has got a deterrent effect, and I say that there are forces prevalent today in India which are out to create as much disturbance as possible. I read out at some length from the Constitution and I drew the attention of the House to the various objects which are defined in the Constitution for which preventive detention is permissible. It is not only public order that is involved. There are many more things. Take, for instance, this continuity of essential supplies. There has been a very long controversy and a sharp difference of opinion on this policy of control and decontrol. Control implies lots of restrictions and a regular planned economy. Decontrol implies freedom at large. Now in some States one or two Governments have embarked upon a policy of decontrol, very cautious decontrol. That requires a very sharp outlook so that the situation may not deteriorate, there may not be hoarding, there may not be profiteering and people interested in making money may not take to anti-social activities. I gave the figures yesterday that there are 93 people who are in detention now on the ground of their anti-social activities. Now that in many States this policy of cautious or partial decontrol has been embarked upon, I think it is extremely desirable that we should have sufficient powers on the Statute-book to take immediate action—both for the State Governments and, wherever necessary, the Central Government—to put a check to these anti-social activities. I shall come to that point later on, namely, that there should be no detention without trial. Of course, that makes to me with all my past history, a very strong appeal, but there are certain limits to it. Similarly, we have this grave danger, as I pointed out yesterday, relating to subjects which are exclusively in the Union List, namely, external danger, security of India and many other things. I do not want to go very deeply into that matter. But the House is aware of the world conditions existing today. My hon. friend just opposite comes from West Bengal. He talks very often of the conditions on the borders there, and similarly we have conditions in other parts of India—spying, espionage and lots of other things. There again there is necessity for exercising great vigilance. These are matters which can be gone into under this Act with very great advantage to the security of the State. Certainly we have—there can be no doubt, whatsoever—a strong body of opinion exercised by Communists, people who hold a certain body of opinion. Now, so far as this opinion is concerned, I said we have got no quarrel. Everybody within the limits of the law is entitled to express that opinion, but sometimes that opinion is expressed in extremely provocative language.

We are 36 crores of people just emerged into independence. The general elections have shown that they are very prudent and shrewd; they have got a fairly high standard of intelligence. But on certain matters, particularly relating to religion, they are easily excitable and I say with some reluctance that there are certain parties which are engaged or which are apt to take advantage of that element of excitability. Now I shall give you one instance. No action was taken on that occasion, but I mention this because I saw it with my own eyes. During the election campaign streets in Madhya Bharat were simply plastered with very big posters which painted in lurid colours—I think it was red or some other colour—people standing, wearing Gandhi caps, supposed to be Congressmen, and doing what? There were one or two cows standing in front and these Congressmen had daggers and they were actually supposed to be depicted as acting as butchers and cutting the throats of those cows. Now, this is not police information. This is what I saw with my own eyes not at one place, but at numerous places. No action was taken.........

Dr. S. P. Mookerjee (Calcutta South-East): Is the hon. Minister aware that the Congress party followed similar tactics in 1921 to defeat non-Congress candidates?

Mr. Speaker: Order, order. Let there be no cross table talks like that. The argument about 1921 is irrelevant.

Dr. Katju: Some of my colleagues saw these and said: "Look at these posters". I said I am supposed to be a religious man myself and, therefore, whatever may be, the evil effects of these posters will all disappear. And it did disappear. But just consider the mentality of those people. My hon. friend is not in the know of these things, but officially he is connected with those people who put forward all those posters, not one I tell you, not one, but thousands. And this is only one kind. And let me tell you one thing more—I am speaking again with some experience. A lot is said about police reports and their untrustworthiness. Now, this is something about our own Department. A police report may or may not be trustworthy where the police is going to make some money out of it. Whenever there is a case under investigation in which a dishonest police officer might try to make some money, there may be false reports, false investigation and all that, but I am convinced from personal experience, from personal checking, that in so far as these political matters are concerned police reports are, speaking generally, trustworthy.

Dr. S. P. Mookerjee: Wonderful!

Dr. Katju: Generally trustworthy. They have been checked over and over again. What does the policeman stand to gain out of it? Sometimes he is there taking reports in shorthand, he submits them. Sometimes he sits there and gives a long account in long hand. For instance, take one thing. I am sorry my friend is not here, but he is reported to have said, "Look at this black, *kala* Bill, the Preventive Detention Bill. What happens? People are put in detention without examination." And would you believe it, he said to the people assembled there, "Anyone who goes to see them is also at once put in detention." Now, just consider: Does this happen?

Some Hon. Members: Yes.

Shri S. S. More (Sholapur): Can I tell the hon. Member that these things happened in 1942?

Mr. Speaker: I would request the hon. Minister not to put questions to the House. He may make statements of fact.

Dr. Katju: Very good. Sir, once for all I may tell everybody concerned that I am speaking in 1952 and I am not concerned with what happened in 1942, not concerned with 1939, and it will have no effect upon me. Personally it will leave me absolutely cold if I am reminded by my hon. friend opposite that I am occupying the place of Maxwell, Tottenham or how many other people I do not know. Nor will it affect me in the least if I am told as to what was said in 1950 or 1949 or 1951. Let us concern ourselves with the position as it exists on this great day of the 18th July, 1952.

Then come the Communists. I welcomed immediately what was said by my friend, Prof. Mukerjee the other day when he said—he did not use that word, he would not use that word—that they are abjuring violence and all that.

Shri H. N. Mukerjee (Calcutta North-East): On a point of explanation, Sir, I never said we are abjuring violence or not abjuring it because the question of violence had not been gone into. Actually when the Home Minister in reply, referred to the point of violence I got up on a point of order and asked the Deputy-Speaker who was in the Chair whether the hon. Minister was in order in trying to introduce a question which had not been discussed and which I had not been allowed to discuss because of the limitations imposed upon me by the Chair at the time. If the question of abjuration of violence or otherwise is going to be raised I ask your indulgence for a thorough-going discussion of the entire topic and I hope to prove to the satisfaction of this House and of the country that violence is being practised egregiously by the Government of the day.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Is it a rule of the House, Sir, that these long speeches on subjects which have very little to do with the discussion should be made in the course of debate? To my knowledge it is an extraordinary procedure we are following.

9 A.M.

Mr. Speaker: Order, order. The real difficulty is that, there is a lot of feeling on both sides of the House on these matters and though I would deprecate in strong terms any such exhibition or outburst of temper it is difficult to go on unless the House, and Members on both sides co-operate. That is why I am requesting hon. Members all round not to make references outside the scope of the Bill. A Member gets up for making a personal explanation and sallies forth into something which is irrelevant and outside the scope; but unless he completes what he has to say or proceeds, it is difficult for the Chair to anticipate him. That is the difficulty of the Chair. But I would appeal to all in the matter. We are sitting here not as opponents or enemies of each other. We are sitting as one body for the benefit of the whole of India, irrespective of party considerations, though there is ample scope for difference of opinion. The first essential of our democracy should be that, we must cultivate tolerance to hear each other patiently and without interference. I would request hon. Members of the Opposition as also hon. Members on the Government side, not to interfere or carry on interruptions when any hon. Member is addressing the House. After all, one is not bound to agree with him and silence does not mean that those who sit silent agree with him. But he is entitled to express his view and his version of matters as he looks upon them. There will be ample opportunity of controverting them; and I am sure when the hon. Member is controverted, the Member doing so will also maintain the same patience. We are here to hear each other and then to come to conclusions, without any preconceived notions or prejudices. That is the view I am taking. Unless Members make it a point to proceed with this determination I do not see how we can legislate in the best interest of the country. Let us not be dragged away by party prejudices or feelings.

Dr. Katju: For myself, I am grateful to my hon. friend Prof. Mukerjee for interrupting me because I was evidently under the wrong impression that the statement that he made the other day which I greatly welcomed, was based upon an abjuration of violence. He did not—when he referred to constructive activities—stuck to his great faith in violence......

Some Hon. Members: No.

Mr. Speaker: Order, order. That is his view—hon. Members will get an opportunity to give their views.

Dr. Katju: ......and to the necessity of the use of violence whether it is called "acts of Government" or "acts of God". May I just suggest this, that the Communist Party of India—I speak with some knowledge—has stuck to one policy throughout its career, through good report and evil report? They have suffered much and they have had great steadfastness and that steadfastness has been—they will get angry with me—that steadfastness has been, come what may, they come to produce chaotic conditions in India.

Some Hon. Members: No, no.

Some Hon. Members: Yes.

Dr. Katju: And—I speak from knowledge again—when I was the Minister of Industries and Labour in the U.P., there was a strike at Kanpur lasting two months. I had many friends, as I said, among the Communist Party and I was trying to smoothen out some differences. One great leader told me, "Dr. Katju, what is the good? If you settle this we will raise another, if you settle that other we will raise the third. We are out here not to bring about harmony between capital and labour. We are here for the purpose of sharpening the class struggle." I know of only one occasion, Sir, and one only when the Communist Party co-operated with the authorities which were at the time, for the preservation of peace and tranquillity in this land, and that was between the year 1942 and the year 1945. There was no other occasion on which they did it. From the year 1924 up to 1952, excepting during those three years, they have not assisted in maintaining law and order. (*An Hon. Member*: Never.) I do not want to go in to that history. Call it a landmark, or a brown patch, or a golden patch—I do not mind it. This is what they did and we know it. This is their philosophy.

They have two simultaneous activities. Eevery genuine communist knows it. Have one front called the "legal front". This Parliament is the legal front. Have another called the "illegal front". This front consists of other activities. I was reading the other day a letter written by a certain gentleman. In the course of that letter, he said, "When comrade so and so is u.g." I tell you with all my knowledge, I was rather intrigued as to what this "u.g." was. I have heard of the UNESCO, of the WHO and all that, but what is this "u.g."? I read the contraction several times, and then it struck me all of a sudden that "u.g." meant "underground". That gentleman had said in the letter, "when comrade so and so is u.g. and has been u.g. for several years etc." There are still comrades u.g. today, and in my dictionary a man who is u.g. is a conspirator and ought to be put behind the bars. (*An Hon. Member*: Not i.g.?)

That brings me to the other point raised by some lawyers here, namely, in a democratic country with democratic institutions and parliamentary assemblies there should be no detention without trial. Very often, from the opposite benches this particular volume has been waved against me. This is the report of Mr. Gopalan's case. If I may speak with great reverence, in one way it is remarkable. It is a report covering 334 pages containing one single judgment and is entitled to the greatest respect, because it is the judgment of the Supreme Court. One or two lines were being read out from a dissenting judgment in that case to the effect that a law like the Preventive Detention Act is unknown in democratic countries. There are other passages to the other effect in other pages in this very volume. But apart from that, when I read those two or three lines, it struck me what are those countries which are familiar to our judges, members of the bar, and other citizens alike. By reason of two hundred years of association, we are familiar with the United Kingdom, and by reason of closer association during the last ten years, to some extent with the United States of America. They will say on the opposite benches that there are no other democratic countries in the world. Anyway, I confess ignorance about French law, Italian law, German law etc. Rulings from them are not quoted. We know not their languages. All our legal administration is based on the U. K. model, because the British were our rulers and the Judicial Committee of the Privy Council laid down the law for us. There of course you have no detention without trial, and the argument will be advanced that it is only in times of war the writ of *habeus corpus* is suspended and so on and so forth. I can myself develop that argument for half an hour or five hours. But please remember what is the basic condition of that democracy, and what are the prevailing conditions there. The basic condition is that the people by ingrained habit extending over six hundred years are law-abiding, in this sense that whatever law may be enacted by Parliament is obeyed. They may try to raise public opinion against it and work for its repeal. Then there are periodical elections. They may make a point against it and they may get it repealed. But once a law is passed it is obeyed. It may be passed by a majority of five or three hundred. That does not matter. It is the law of the land, and when an order is issued under an existing law that order also is obeyed.

I do not know whether that habit exists here. I wish with all my heart that it existed here. If it existed here, no matter what law you enact, whether you have the Preventive Detention Act or you do not, there will be no use for it and it will remain a dead letter. People will carry on their activities in an open fashion and agitate against bad laws in a proper manner. I am talking of self-governing countries. I am not talking of countries which are under an alien government. There, other ways may be permissible. But in countries where there is self-government and real, genuine, democratic institutions this will happen.

By way of illustration, I may just mention—I am not going into the rights or the wrongs of it—one thing. Supposing an order is issued here in Delhi that in order to enable us to carry on our deliberations there should be no assembly, say, within a quarter of a mile of Parliament House. Supposing an order under Section 144 is issued. You may raise a point of order and say that that order should never have been issued, and that it should be withdrawn. I agree. You may even bring a vote of censure against the Government on that account. But so long as the order stands, what is the position? What do you expect? Do you or do you not expect that people should obey it? Supposing you find that in the city of Delhi—I am taking Delhi just as an instance; it may be Timbaktoo—there are influential people who are egging on the populace to defy that order and march in thousands or tens of thousands to break it, what is to be done? You see a picture in this morning's *Hindustan Standard* on the last page and it will show you what happens. I have seen it with my own eyes. Police have formed a cordon and are trying to enforce that particular order. They are doing nothing. They are merely standing. But you see the faces of the other people, their excited temperament, their features with eyes bulging out and so on. They want to rush and attack the police. Naturally, the consequences follow. Tear gas is used, and we hear at once democratic conventions and objections being quoted. I suggest to you: if Government is satisfied, if *you* are satisfied (by having access to the papers), that there are some two or three or four people who are egging on the populace for their own party ends, what will you do? Remember, in that order under Section 144 no politics enters; no political issues are involved.

[**Dr. Katju**]

Simply with a view to defying that order and bringing the Government into contempt and disturb the public peace, people are egged on. Do you not think that under those circumstances action under the Preventive Detention Act is justified? (*An Hon. Member*: Surely.)

Some Hon. Members: No, no.

Dr. Katju: Opinions may differ. I am only trying to express my opinion. In Delhi itself nearly two months ago there was a great possibility—I am not putting it any higher than that—of very grave disorders. This city is a very explosive one and speeches were made. Now, which is better—action under this Act in future against two, or three, or even ten people, for a few days, or grave disturbances causing loss to numerous people, innocents? In Calcutta tram cars were burnt again; bombs were thrown, innocent people were hurt; the police were hurt. Now which is to be preferred—this cry: "no detention without trial" or for the purpose of preservation of the peace prudent action in order to stop the disturbances? I say again and again no quesion of preventing or curbing the expression of any political opinion ever arises.

Now, you will be pleased to remember one other fact which I wish to emphasise. In England Parliament is supreme. There are only 4 crores of people. Everybody knows—you and I and a good many others who have gone there—and you may hear a lot of gas let off in public places, but people obey the law. So far as America is concerned, there is an express provision in the written constitution that nothing should be done without due process of law and they act according to the law.

Here the Constitution was framed after considerable discussion. I imagine my hon. friend Dr. Mookerjee then was a member of Government when the Constitution was framed. After due consideration the Constituent Assembly agreed that there should be provisions inserted in the Constitution for preventive detention. It did not prescribe any conditions.

The Constitution makers recognised the existing conditions; recognised that we were emerging into independence, that we had lots of refugees here and there, and that we were passing through a very critical phase in international affairs. Internal conditions also were not free from anxiety and deliberately they put in the item in the list and hence article 22. Now I suggest to you that that itself indicates that the Constitution recognised that in India today the possibility exists and contingencies may arise in future when such laws may have to be passed. I suggest to my hon. friends who may be opposing this Bill tooth and nail—and that opposition was indicated by the procedure adopted by them on the first day—that the proper course is to get the Constitution amended, not the Act. It is the Constitution which from their point of view is at fault. They should get rid of the items in the Union List and the Concurrent List. But if the Constitution permits it, then I suggest that it presupposes that there are conditions in India prevailing today which may necessitate preventive detention and if conditions exist then Parliament is supreme and must enact legislation.

I do not want to repeat myself. I hinted, Mr. Speaker, very generally, that I am rather surprised at the conglomeration—(*Some Hon. Members*: The same on your side.) of the opposition. Now, we have the Communist Party: their opposition is understandable, because if you do not have the Act the greater the opportunity for them. I understand the communalists also, because if there is no Act, greater cow-slaughter or greater amount of speeches. But I do not understand another class—the ex-rulers. On the debate on the 25th June on the Home Minister's grants there was one cut motion put to the vote by you, Sir. That cut motion was for a reduction of hundred rupees to discuss the question of civil liberties or civic liberties, tabled by hon. friend from somewhere in the Eastern India. Now, fortunately or unfortunately, I myself was born in and bread in an Indian State. I rubbed my eyes, because I thought of what existed there in 1948. In that State no meeting could be held.

Shri S. S. More: How can he refer to the past, Sir?

Dr. Katju: No meeting could be held; no newspaper could be published; nothing could be done. Really, we are living in an age of miracles and an age of revolution. The revolution which has come over the mind...

Dr. N. B. Khare (Gwalior): The greatest miracle is yourself.

Mr. Speaker: Order, order.

Dr. Katju: ......of the ex-rulers is one of the most agreeable and remarkable transformations. The rulers of yesterday who would not allow anything to be done in their States, now stand up in Parliament and say that civil liberties are being destroyed. I do not plead in the name of consistency, because consistency is not a very desirable virtue. But there should be some sense of proportion in these matters. Then, among those who joined in this cry were some industrialists, or people who represented or are supposed to represent vested interests. Here is a union of hearts-communists communalists, industrialists, ex-rulers and so called independents all dying for civic liberties.

Shri Veeraswamy *rose*—

Mr. Speaker: Order, order. Hon. Member should remember that they are not here......

Shri Nambiar (Mayuram): Is this the order they are going to maintain.

Several Hon. Members *rose*—

Mr. Speaker: Order, order. When the Chair is on its legs nobody should stand.

Shri Nambiar: They must behave.

Mr. Speaker: If anybody stands now, I shall have to ask him to get out of the House. What is the meaning of this? We are conducting a debate; hon. Members must remember that, we are not here in a public meeting where interruptions go on from time to time or questions are put. No. We are deliberating here and the hon. Minister or any other Member who is speaking is entitled to be heard absolutely uninterrupted. Instead of that, I find a running commentary going on. The hon. Minister puts forth an argument and questions keep on coming incessantly. That is not the way of carrying on a parliamentary debate. But if that is the way in which some Members wish to carry on, I should prefer them to remain absent from this House rather than......

Shri Nambiar *rose*—

Mr. Speaker: At the next interruption he will have to go out of the House.

Shri S. S. More: May I ask, Sir.

Mr. Speaker: No, no. I am not going to hear. Mr. More is in the habit of getting up in the form of raising questions and putting in some remarks.

Shri S. S. More: Is it condemned?

Mr. Speaker: It is condemned absolutely.

Shri S. S. More: Why?

Mr. Speaker: No questions. It is the ruling of the Chair. An occasional interruption, an occasional rising for explanation of a personal character is quite all right. But heckling a man not only for the purpose of.........

Shri S. S. More: Is it not parliamentary practice?

Mr. Speaker: It is not the parliamentary practice at least in the Indian Parliament.

Shri S. S. More: I beg to differ from you.

Mr. Speaker: He may differ, but if he wants to put that difference into action, he will not remain in the House.

Shri S. S. More: I am prepared to take the legitimate consequences of my action.

Mr. Speaker: Then he had better leave the House just now.

Shri S. S. More: All right.

Shri Nambiar: If you want to send him out you will have to send us all out. (*Interruption*).

Mr. Speaker: I am not sending anybody out. (*Interruptions*).

Shri Nambiar: It is not in the history of Parliament.

Mr. Speaker: I am not ordering anybody to go out. Those who want to interrupt the proceedings are at liberty to leave. They should not interfere with the proceedings of the House in the way they are doing.

Some Hon. Members: Why not?

Mr. Speaker: Why do these Members feel that the caps fit them. It only fits those......

Shri H. N. Mukerjee: May I make a submission? (*Interruptions*).

Mr. Speaker: Order, order. (*Interruption*). Order, order...

Shri Veeraswamy *rose*—

Several Hon. Members: Order, order. Order, order.

Mr. Speaker: If the hon. Member, Mr. Veeraswamy, stands up again while the Chair is on its legs he will have to go out.

Shri Nambiar: So you are sending out one by one?

Mr. Speaker: I am not sending out one by one. I am saying that the proceedings should not be disorderly. Every Member is going to get a chance. If he wants to make a personal explanation he is certainly entitled to do so. But what I want is that one man at a time should be on his legs to speak and there should not be continuous interference with the proceedings of the House which will have to be carried on in a spirit of constructive legislation. Those who want to stand

[Mr. Speaker]

or want to give replies every now and then, they have no scope here. They should either not do it or better remain out.

Shri H. N. Mukerjee: May I make a submission? You will please take into consideration that in this matter tempers have raged rather high and you must have noticed that the provocation came from that side in the way.....(*Interruption*). If you make your observations apply with equal force and without the slightest discrimination to both sides of the House then, and then alone, can we interpret your ruling in the only way and spirit in which it should be interpreted.

Mr. Speaker: My remarks apply to all Members of the House, not to any one side, and if I see any persistence on the part of any Member on the right side, including a Minister, I will ask the Member to quit. Even the Minister will not be discriminated in favour. But I cannot understand persons like Mr. Nambiar or Mr. Veeraswamy or Mr. More getting up every now and then and interrupting, even when I say that they should not interrupt at this stage. So, those who cannot check themselves to that extent had better remain outside. Parliament is not a place for such kind of discussions or demonstrations. It is a place for quiet, dispassionate debates. I can appreciate that sometimes some remarks may excite some Members, and I have not very seriously objected to a vociferous 'No' or 'Yes' by a large number of Members. That stands differently. That is not a thing which I want to encourage or appreciate, but I can understand it. But when some Members make it a point to get up every now and then—that is what I have noticed, and I am mentioning particularly this habit which I have seen in Mr. Nambiar as also in Mr. Veeraswamy, in spite of my saying 'Order, order' those people continue to stand—that is a disrespect for the Chair and therefore of the House also. That cannot be tolerated. Our debates cannot go on in that manner.

Shri H. N. Mukerjee: There is one other point which I would humbly submit for your consideration. Mr. More when he went out was naturally provoked into an expression of certain sentiments under an apprehension that the other side of the House was not behaving properly and the Chair was not, according to him—it may have been completely wrong—as stringent as it should have been to them. Mr. More being a leader of a particular Group on the Opposition side, would you please allow us to convey to him your latest statement that you wish your strong attitude to apply equally and without the slightest discrimination to that side of the House also? I shall beg of you because if he is out of the House it is rather difficult for us to maintain our temper in the spirit in which we want to maintain it.

Mr. Speaker: Order, order. In the first place, I must emphatically controvert the suggestion that the Chair intended to be partial by allowing one party or one section of the House a liberty which the Chair was not inclined to give to the other side. Nothing of the kind. The House would have noticed the persistent interference which came in during the last ten minutes, by trying to reply to observations which came—almost every observation which came—from the hon. the Home Minister and the way in which Mr. More wanted to argue with the Chair and stated that he will go on like that. His assertion was that, according to him the practice in Parliament was to allow that kind of thing. And when the Chair told him that whatever may be the practice —it is no use arguing with the gentleman who maintains that kind of assertion—'Well, any way, in the Indian Parliament that is not the practice", and Mr. More said "Well, I am going to observe the practice which is there"...

Some Hon. Members: He did not say so.

Mr. Speaker: Now, it is evidence of my own ears, I am not going by hearsay evidence. He did say so. Hon. Members who say 'No" were perhaps so much excited that they did not hear. That is the most charitable construction I can place on their "No". When he said that he was going to follow his own procedure, I said to him that, if he wanted to follow his own procedure, it will not be permitted here and this is not the place for him, and that if he persists in that he had better go out. I left the option entirely to him to go out. The alternative given to him was to obey whatever the ruling of the Chair may be for the time being or, if he did not want to do that, better to remain out. He said: "I am going." I said, "All right, please yourself." That is the position.

It is none of my business now. He may be a leader of a party, I appreciate that fact. But as a leader of a party, his conduct has to be more responsible than what it has been—whoever the party may be or whatever their number. He is a leader of a party, in the sense that he has the backing of a few Members. That is all. It is not recognized as a parliamentary party, not even as a parliamentary group. Therefore, if the hon. Members are so desirous, I have no objection to their conveying to him what I have said here now—of course without conveying it in the way that first I made one statement and then another, that first I was partial and then on a reconsideration or a request from Mr. Mukerjee, I became absolutely fair and impartial. Nothing of the kind. And if he wishes to come, he will be welcome. I do want to maintain an atmosphere. I do not want to go beyond certain limits. But there is a limit within which Members should conduct themselves. The goodness of the Chair or the softness, if you like to call it, must not be taken advantage of to such an extent as to make the parliamentary work entirely impossible. That is what I have to say. If Mr. More—he has gone out of his own accord—if he wants to come he may come. If he does not want to come, he need not come. But if he comes, it must be impressed upon him that, there should be no interference with the debate of the kind that he was making. Any genuine enquiry he wants to make, certainly, he is welcome to make. I have given him a chance every day—for eliciting information on something and so on. But it is the extreme limit to say that, he will persist in his own way of putting in interruptions because, according to him, it is the practice in other Parliaments. Of course he can follow it when he is in the Chair. But so long as I am in the Chair I am not going to allow that kind of thing.

Shri H. N. Mukerjee: Would you make your own contribution in restoring the proper atmosphere to make it possible...

Mr. Speaker: Unfortunately, that is not responded to, I should say with great regret, more by the Opposition than by the Government Benches. I know my responsibilities and therefore I am appealing to all Members of the House, irrespective of Government Benches or the Opposition, just to keep within limits.

But it was half a dozen Members of the Opposition who persistently stood up and began to talk at the same time. There was nothing of the kind on this side of the House except a general chorus of approval or disapproval at times. But that is a different thing. I did not object to the Communist benches or the Opposition benches thumping their tables on one occasion in this very debate. I can understand that. But what is the meaning of 4 or 5 people standing up and speaking together and addressing the Chair? How is any deliberation in any Assembly possible under these circumstances. So it is no use making an appeal to me. Just let them make an introspection. I am always there to uphold their rights.

Shri H. N. Mukerjee: If it is your decision that the Communist benches and the Opposition benches in general have exhibited a disorderly conduct compared to the conduct of the Members of the other side of the House, then I am afraid we at least on the Communist benches would have to go out.

Mr. Speaker: The hon. Member is again assuming certain things. I said 4 or 5 Members of that party stood up persistently and I can mention two of them prominently. I do not know the other Members. Mr. Nambiar...

Shri Nambiar: I strongly protest against that. You cannot put in my name unnecessarily.

Mr. Speaker: His conduct justifies it. If I am wrong in judging his conduct in the past, his present conduct is more than ample justification. I do not want to enter into an argument with him.

Shri Nambiar: It is unfair.

Mr. Speaker: Will the hon. Member withdraw that allegation.

Shri Nambiar: No.

Mr. Speaker: Then he will withdraw from the House.

Shri Nambiar: No. I will not go. Let the Police come. I will not go. You will have to take me by force. I will not go. You take me by force. (*addressing the Marshal who approached him*).

I will not go. You drag me out.

An Hon. Member: You alone go.

Shri Nambiar: I will not go.

[*Mr. Nambiar then moved to a back seat.*]

Dr. Lanka Sundaram (Visakhapatnam): May I ask for a short adjournment?

Mr. Speaker: No. It is a question of maintaining the prestige of the House.

Shri Nambiar: I am not Mr. More.

Mr. Speaker: If a Member persists in that kind of conduct, you cannot get out of the situation by merely saying that an adjournment of the House will be desirable. Mr. Nambiar must withdraw his allegation that the Chair is unfair.

Shri H. N. Mukerjee: The temper of the House is such that I am afraid for the time being, we shall have to go out of the House.

Mr. Speaker: I again appeal for a *locus poenitentiae* if he really wants to co-operate in the deliberations of the House. The request of the Chair or the order of the Chair was to Mr. Nambiar only to withdraw the word 'unfair'. He refused to withdraw. He persists in saying that and still, is it the hon Mr. Mukerjee's contention that he should be permitted to sit in this House?

Shri H. N. Mukerjee: No, Sir.

Mr. Speaker: If that is so, then there is no question to consider. He can induce his friend, Mr. Nambiar, just to withdraw the word 'unfair'. There is no doubt that he must.

Shri H. N. Mukerjee: You must have noticed that efforts were made to persuade Mr. Nambiar to withdraw the statement which he made against the Chair. I must say that I certainly do not associate myself with it. I completely dissociate myself from that statement. But the fact of the matter is that in spite of everything, such a situation has been created and tempers have risen so high (*Interruption*).

Mr. Speaker: Order, order.

Shri H. N. Mukerjee: An atmosphere is there in the House and leaving Messrs. Nambiar and More out of the picture, for the time being, it is rather difficult for us to concentrate our minds on what is taking place in the House. I hope you will not misunderstand but the temper of the House has changed in such a manner that we cannot explain in rational terms. For the time being the temper of the House is such and the atmosphere is such that we fear that we cannot remain in the House at the present time.

Mr. Speaker: I may show to the hon. Member that the question is a very simple one. I first explained to him that I did not ask Mr. More to go out but when he asserted, I said, he can do it somewhere else and not here and that he was free to go. He then went. Mr. Nambiar's case is very clear and I am very definite that, so long as my hon. friend does not induce him to withdraw the charge of unfairness, it would not be proper on the part of the Chair to let him to continue in this House. He must withdraw that allegation. As for a general walk-out, I should be very sorry but I warn my hon. friends, as my colleagues in this House, that they are setting a wrong example in encouraging that kind of behaviour by just acting up to or just keeping the colleagueship of that Member. If they really want that the proceedings ought to be improved, the best course is to induce Mr. Nambiar to withdraw the allegation and to request Mr. More to come in, subject of course, that he will accept the rulings of the Chair and not act according to his...

Shri Meghnad Saha (Calcutta North-West): I suggest that the House be adjourned for a short time.

Several Hon. Members: No, no.

Mr. Speaker: Dr. Saha's suggestion was also made by some other gentleman on that side. I would have gladly adjourned, if there was some other incident that led to it, but it relates to a charge of unfairness and the Chair is expected to swallow that kind of thing! And there was a declaration by a Member that he will not carry on according to the rules of this Parliament but by what he believes to be the proper rules. That is destructive of all discipline and I am afraid, if I yield just for the purposes of the 'atmosphere' that Mr. Mukerjee wants, practically it will be destructive of the future discipline of the House. I am not going to either extreme and I am sure my hon. friend knows it by now and he is at liberty to go and induce those two gentlemen just to rectify their mistakes. That is all. I do not want Mr. More also to make a declaration but I certainly want Mr. Nambiar to say that he withdraws the word 'unfair'.

Shri Jawaharlal Nehru: I am sorry I do not wish to interpose, but it seems to me that it is becoming a dialogue almost on that side of the House and you, Sir, and we have been watching, I hope, with relative quiet and calm what has happened in the last few minutes. For my part, speaking not as a leader of a party but as the Leader of this House, I should like to express to you, Sir, my deep regret at the way that some Members of this House on this side or that side may have behaved towards you or towards the dignity of the House and I would appeal to all Members alike—speaking again as the Leader of this House—and say that absolutely the first thing to be done in this House is to obey the Chair. Otherwise, there is no order. Otherwise it is impossible for us to carry on. It may be that an individual may think occasionally that even you in your wisdom has gone wrong. It should not be possible even then that any Member should challenge your decision whether he thinks it is right or wrong. That is the very basis. I do wish to express, speaking on behalf of the whole House, my deep regret at some of the exhibitions that we have just now seen.

I do not wish to say a single word that would add to the feeling of excitement. But, Sir, I cannot help drawing your attention and the attention of the House to a fact that has not gained any notice. You were good enough to say, in your generosity, that the hon. Member, if he withdraws what he said, may come back. That is for you to decide. But, an open defiance by word and gesture of the Chair, a repeated defiance by word and gesture of the Chair is, I do submit, not a thing to be lightly passed by.

I do not know, at the moment, what the Rules of the House are, and whether it is the function of some Committee of the House, Privileges Committee or whatever it might be. I would submit that we should not argue the matter now. But, this matter, that is, what Mr. Nambiar said and did by word and gesture, should be referred to that Committee for enquiry and report. I do not wish immediately to make any motion and interfere with the business; I am not prepared to do so. But, I should like this matter to be considered with all the seriousness that it deserves. I am surprised that hon. Members should suggest that the House should be adjourned because of the fault of some Member. That would mean that we can never carry on any work at all if a single Member can put an end to the business of the House. Further, not only the insult to you—and the insult to you is an insult to the House—by word and gesture: the deliberate refusal to go out of the House when you had ordered him, it amazes me that any Member should do that. I may move for his suspension immediately; but I do not. I should like to have your advice in the matter because I do not wish that this House should take strong steps. But, I have no doubt that if this behaviour is repeated by any Member, that Member should be suspended from this House for a period, whatever the period may be, that this House may determine.

Mr. Speaker: I do not want to argue this matter any further. I have already clarified the position. Mr. Nambiar is here in the House. Is he prepared to withdraw the words?

Shri Nambiar: I will rather go out than withdraw.

(Shri Nambiar left the House.)

Mr. Speaker: I might in this connection, just invite the attention of hon. Members to Rule 268 which says:

"(1) The Speaker may, if he deems it necessary, name a member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof.

(2) If a member is so named by the Speaker, he shall forthwith put the question that the member (naming him) be suspended from the service of the House during the remainder of the session:

Provided that the House may, at any time, on a motion being made, resolve that such suspension be terminated."

There is another sub-rule. I am not concerned with that. As I wish to preserve, as I said, an atmosphere, so far as possible, of good will and as I also realise that Mr. Nambiar is more under the influence of anger and feeling, rather than of reason, I should not like to take serious notice and go to the length of suspending that hon. Member. It is enough that he is not present in the House today, unless of course—my first offer is open—he withdraws his allegation of unfairness of the Chair. I think this is the minimum on which I must insist.

Now, the hon. Home Minister will continue.

Shri Raghavaiah (Ongole): On a point of information, Sir....

Mr. Speaker: This matter has sufficiently been argued. The hon. Member will resume his seat. Let the debate continue.

Shri Raghavaiah: In view of the light thrown now, I would like to have a clarification...

Mr. Speaker: The hon. Member may see me in my Chamber rather than take the time of the House.

Shri Ragavaiah: The whole House is interested......

Mr. Speaker: Order, order; the hon. Home Minister.

Dr. Katju: Mr. Speaker, I shall now dwell upon some of the improvements which we have thought fit to make in this Bill, on the old Act. This may have some mollifying influence upon many of the Members present.

In the first place, the House knows that for two years, the practice has been to make the Preventive Detention Act for a duration of 12 months and the result was that unless the Act was renewed, all detentions came to an end automatically after 12 months. This practice seemed to us to be unsatisfactory from many points of view. In

[Dr. Katju]

the first place, as I have ventured to state, the need for continuing some measure like this on the statute book for a few years, seems to us to be abundant. Secondly, it also struck us that this twelve-monthly introduction of this Bill merely leads to a waste of time. The House has seen an exhibition of it today and Parliamentary time is valuable. Therefore, there is a provision introduced that this Bill will last up to 31st December, 1954. I see on the Order paper amendments bothways. Some ask for extension. There is a good deal to be said for that point of view. Some advocate a lesser time which would make many of the provisions of the Bill futile. I say futile because the House would have noticed that for the first time it is stated in the body of the Act itself that no detention shall last longer than 12 months from the date of the confirmation of the order by the Advisory Board. That more than ever serves the purpose of limiting the Bill to a period of 12 months. The Act may be on the statute book for years and years, or for as long as Parliament may decide. So far as a particular individual is concerned, he can only be detained for 12 months from the date of the order of confirmation, and that confirmation may come much sooner than 3 months.

The second concession that we have made is about the right of representation. The House would recollect that the old Act provided that when a detenu is supplied with the grounds of detention, then, he would have a right to make an answer on his own behalf in writing, and the Advisory Board will consider it and may, if they think fit, ask him to come before them. That was left to their discretion. Now, this Bill provides that if the person then exercises a wish to come and address the Members of the Advisory Board personally, then he should have that opportunity. Often times it was said that a personal representation may be more fruitful, may cause a better impression and may be advantageous to the person detained, and that wish has been carried out.

I imagine that it would be said that mere representation is not enough, mere personal attendance is not enough there should be lawyers, liberty to cross-examine, to call witnesses and so on and so forth. Now, some amendments have been tabled to that effect. I submit to you, Sir, that having regard to the very object of the Bill, having regard to the very purpose which it intends to serve, the presence of lawyers would not be advisable nor of those of witnesses. There may be matters of the utmost secrecy and therefore, publicity may be very harmful in the interests of the State. As I said, I do not wish to enter into any legal argument, but the hon. Members who may be desirous of quoting from the judgment in Gopalan's case, may very well bear in mind what was said by the Chief Justice of the Supreme Court at Page 124 of the report. It is said:

> "I am not prepared to accept the contention that the right to be heard by a lawyer is an essential part of the right of procedure, even according to the rules of natural justice."

And further he says if the detenu himself has not got such a right according to natural justice, what to say of representation by lawyers. I do not rely upon these judicial observations. It is a matter of public policy, and Government is not prepared to go into that.

Then, secondly, you would be pleased to see that the order can be made by the Central Government, and also by the State Government—rather, the Act authorises the orders to be passed by officers of high status. District Magistrates in India are very senior officers and so is the Commissioner of Police in Calcutta. Now, in the former Act, it was stated that when a District Magistrate passes that order, he may send information of it to the State Government. The Act now makes it compulsory that he should give such information with all details within 15 days, and to ensure that the State Government applies its mind to it, and makes itself even formally responsible for the order, the Bill provides that the order should be confirmed specifically or approved specifically by the State Government within 15 days from the date of detention. Some amendments have been tabled here, in one of which it is stated, probably following the English procedure, that the Home Minister should do it. I really do not know what is the virtue attaching to the Home Minister, but if it is the State Government, all acts of the State Government are to be transacted by Ministers, responsible Ministers in charge, whatever may be the name of the Minister. It may really even go before the Cabinet or the Chief Minister, it does not matter. So, I submit there is not much force in that. These are really the points that I wish to raise before the House.

10 A.M.

There is a clause which provides clearly that when once a man has been released, he is not to be detained on the grounds which brought about his detention at an earlier stage. He must do something else before he can be detained again.

And finally, I should like to emphasize one point because there seems to be a misunderstanding. The primary responsibility, even in these matters of detention, is that of the State Government. It is true that a particular section in the Act empowers the Central Government to order release, but I submit that the State Government, having to shoulder the burden, must exercise this responsibility, and the Central Government when it exercises its statutory powers will, of course, always give due weight to their opinion.

Finally, Mr. Speaker, in the old Parliament when a Bill was put forward by Government for the extension of the Bill by six months, I promised that the Government would do its utmost to modify the old Act in so far as to make it more workable and to remove legitimate grievances. I suggest that I have carried out that undertaking and the Bill as it is put before the House is definitely much simpler and should cause no apprehension whatsoever to any person who is not inclined towards any illegal activities, but who is only engaged in legitimate political work, in popularising his political views, his political philosophy, his political opinions and in educating the electorate. The moment he goes beyond that, then the Bill or the Act may come into operation.

Before I sit down, I should like to say another thing. Under the Penal Code, various offences are defined. Lastly, there is a section which says that an attempt to commit an offence is punishable. The rulings say that preparation is not punishable. There is a lot of controversy in the Courts as to when preparations come to an end and attempt begins. Now, I do suggest that the distinction may be very fine, and if you allow preparations to go on, then the danger to the State may be as great, even greater, as if an attempt is already performed. The object of the Preventive Detention Act is in substance to see to it that preparations on behalf of an individual do not reach such a stage as to cause grave harm and put the safety and security of the State into jeopardy, or put the continuance of our essential supplies in danger or public order itself in danger.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration."

Shri H. N. Mukerjee: Before you take up another matter, I have to make a very short statement on behalf of the Communist Members of this House. As you know, Sir, most of them have already left the House. I submitted to you that the temper of the House and the atmosphere had reached such a position that it was impossible for us to remain. Now I do not wish to say anything about the conduct of the Chair, and I have nothing against the conduct of the Chair as such, but I say this that the combination of circumstances this morning has produced such an effect, on account of nobody's fault perhaps, that reason has sometimes said good-bye on both sides of the House, and perhaps also the Chair, may be, with all its wisdom and equanimity, did not rise to a kind of superior indifference to all things. In any case, altogether an impression was created on our side of the House, especially after hands were laid upon the person of Mr. Nambiar, that feelings have been extremely strained. For the time being, the position is such that for us to continue in this House and discuss with equanimity the very serious proposition before us—which you want us to discuss with any equanimity—is almost impossible. On behalf of the group which I represent, I would submit to you that we propose to withdraw from the House for the time being, because we cannot concentrate our minds on the work which is before us. Certain events have happened whose implications have perhaps to be gone into and thought about carefully. Those events have hurt the sensibilities of most of us very much, perhaps not for any fault of the Chair—I do not suggest for a moment that the Chair is to blame. But I would submit that in these circumstances we are leaving the House—most of us have already left the House, but I had remained only to make this statement to you, Sir, and I hope you will take this statement in the spirit in which it has been made—and I hope you will permit me, Sir, to withdraw from the House.

Mr. Speaker: Yes.

Dr. S. P. Mookerjee: Sir, may I rise at this stage to raise a point of order? I am not speaking on the Bill. The point of order, which I would like to raise, relates to the scope and principles of the Bill, and I would desire a clarification from you, Sir, as regards the scope and principles of the Bill, so as to facilitate the debate and help us in deciding the attitude that we should take on the Bill.

[MR. DEPUTY-SPEAKER *in the Chair.*]

In the first place, my point of order is that the form in which the Bill has been drawn up is not in order.

[Dr. S. P. Mookerjee]

Secondly, if it is held that it is in order, then I raise the further point that in view of the form in which this Bill has been proposed, the importance of the subject matter embodied in the Bill, and the assurances held out by Government in this connection, we should have the right not only to discuss the Principal Act, and the provisions of the present Bill, but also the right to propose amendments in respect of both.

The Bill, in one stroke, serves two purposes, firstly the Preventive Detention Act of 1950 which expires on 1st October 1950 is sought to be extended till 31st December 1954 under Clause 2 of the Bill. In other words, it is in the nature of an expiry Act continuation Bill. Although that expression is not used in our rules of business, yet it is taken from the House of Commons Rules and has been referred to on previous occasions by the hon. Speaker. Now at the same time the Bill seeks to amend as many as 5 out of the 16 sections of the principal Act, and insert a new section. In other words, instead of bringing forward a comprehensive Bill embodying such sections of the previous Act which the Government desires to continue and such amendments thereto as the Government desires to make, it brings forward a Bill which in one place seeks to continue an expiring Act, and in another place seeks to amend some provisions of the principal Act.

I referred just now to the assurances given by Government, that has no constitutional effect, but it is as well that I should refer to them, because that raises the question of fulfilment of a promise which was made by Government and by the same Home Minister. On 28th February 1952, when the Preventive Detention Amending Bill of 1951 was sought to be extended till October 1952, the hon. the Home Minister spoke thus:

> "I use every word in my speech deliberately and I say this that this is a very harmless measure in this sense that we are anxious that the whole policy underlying the Preventive Detention legislation should be considered by the new Parliament, and that Parliament is likely to meet in the month of May or thereabouts, and then I dare say many Acts will be put forward for consideration. Meanwhile I would like to remind the House that the Act was passed in 1950, and it was amended on 1st March 1951. Of course it is open to the House to change its views and to say that it should be dropped altogether. That is a different matter..."

This was followed by other remarks, which I do not want to read. But today the procedure which the Government has followed defeats this assurance solemnly given then. I am not saying that it has done so deliberately to shut out discussion, but the net effect of the procedure followed by Government is that according to the rulings given previously by the hon. the Speaker and according to the general conventions, we are not entitled to propose any amendments to the Sections of the principal Act, except on those amendments which have been proposed by Government itself in the amending Bill.

With regard to my first proposition, Sir, where I ask you to rule this Bill entirely out of order. I would rely on a ruling given by our Speaker on 20th March 1951, with regard to the Ajmer-Merwara Rent Control Bill of 1951. The question which I would first ask you to consider is this. Can a Bill be brought forward by Government which is in the nature of a continuance Bill for an expiring Act, and in the body of that Bill propose amendments to the principal Act? This is the first proposition which I am asking you to consider. My submission would be that with reference to the ruling given by the Speaker here and also the rulings given by the Speaker in the House of Commons in a number of cases, such amendments cannot be allowed, and hence the Bill as drafted is out of order. I have got an extra copy of the ruling given by the Speaker, which I may, if you would permit me, hand over to you. This Ajmer-Merwara Rent Control Bill of 1951 was a very short Bill which sought to extend the operation of the principal Act for a further period. There were one or two amendments made in that Bill which the Speaker ruled were entirely of a verbal nature. Our late lamented friend Lala Deshbandhu Gupta proposed certain amendments to this Bill seeking to amend some of the provisions of the original Act of 1947. The Speaker had to consider whether the amendments to the principal Act could be deemed to be admissible or not. I shall read out the relevant portion of the ruling only—I have handed over a copy of the whole ruling to you already—which is also relevant to the point of order that I have raised from page 2, last paragraph:

> "I approached the consideration of the amendments with a strong bias in favour of this plea. But on a closer and mature consideration and a study of the precedents in the House of Commons which

> are based on experience. I have come to the conclusion, that, broadly speaking, in cases where a Bill is brought to continue an expiring law, it would not be competent to move any amendments seeking to alter or modify the substantive provisions of the expiring law. To this general rule, there are some exceptions depending upon the nature of the continuing Bill which seeks to continue the expiring law. But they are of a very limited and also of a procedural character; the vital point being that, no expiring law sought to be continued can be taken as an occasion to amend or alter the substantive provisions of the law, which is sought to be continued."

Now basing my argument on this ruling given by the Speaker, I would ask you, Sir, to hold that the Bill as drafted is out of order. If members of the Opposition or individual Members cannot move any amendment when a Bill is proposed to be introduced seeking to continue an expiring Act, the same embargo applies to Government also. They cannot also put forward any amendments in such a Bill.

The second point which I wanted to raise is this. My purpose is to get the ruling of the Chair as regards the feasibility and admissibility of the amendments, so as to enable the House to consider the entire Act. I am not raising this just as an academic issue. But in view of the commitment made by Government that Government would give a chance to this House to consider the entire Preventive Detention Act of 1950. I would ask you to give a ruling in case you hold that technically this Bill is properly framed, that we should be given an opportunity to propose amendments with regard to any or all the provisions of the principal Act, not merely a discussion of the provisions of the Preventive Detention Act, but also the right to propose amendments in respect of all the Sections.

Now this question has to be considered first in relation to our own rules and then in relation to some of the rules which are obtaining in the House of Commons. Rule 75 lays down the scope of general discussion when a particular Bill is before the House. Rule 75 says: "On the day on which any motion referred to in rule 74 is made," as the hon. Minister has made today, "or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its provisions may be discussed generally, but the details of the Bill shall not be discussed further than is necessary to explain its principles". From that basis and also on the basis of the ruling previously given by the Speaker, it may be possible for us to discuss generally the provisions of the entire Preventive Detention Act. Rule 100 which lays down the limitation with regard to amendments says: "(1). An amendment shall be within the scope of the Bill and relevant to the subject-matter of the clause to which it relates." Now, it is for consideration whether under that provision it is open to us to propose amendments with regard to the entire provisions of the Preventive Detention Act.

The rulings which were quoted from the House of Commons and included in the ruling given by the Speaker which I have read out, are all taken from the Committee stage when certain Bills were under consideration in the House of Commons. There the entire House went into a Committee and when a Bill was referred to the Committee of the House, the question arose whether it was open to the Committee of the House to consider amendments outside the scope of the Bill, and two points emanate out of the decisions which have been given by the Speaker which are embodied in May's Parliamentary Practice. It has been held that even with regard to a Bill which is merely in the nature of a continuation Bill it is open to this Committee or the House to amend the Schedule whereby any of the provisions of the parent Act can be dropped altogether, but no amendment with regard to the modification or with regard to this varying of any of the provisions of the principal Act can be made. That you will find, Sir, at page 532 to 533 of May's Parliamentary Practice. But the question is discussed in fuller details in that page and the present practice is......

Mr. Deputy-Speaker: May's Parliamentary Practice, latest edition?

Dr. S. P. Mookerjee: 15th edition, pages 532 to 533. The practice which obtains in the House of Commons is different from the practice which obtains here. When a Bill is referred to a Committee of the House, it is open to the House to issue instructions to the Committee and while issuing instructions as mentioned at page 517 of May's Parliamentary Practice, the House may instruct the Committee to go into and examine the provisions of the parent Act or even to go outside the scope of the Bill if it is considered necessary. But it cannot be done unless it is relevant to the Bill which is before the Committee. And I am glad to find that the same expression has been used in our rules, namely, whatever amendment is proposed must be relevant to the Bill which is before the House.

[Dr. S. P. Mookerjee]

Now, Sir, the point which I wish to raise is this. Either Government should accept this position and allow amendments to be moved in relation to the entire Act, not merely confining our discussion to the few clauses which have been included in the amending Bill, or the Bill should be redrafted and a consolidated Bill should be brought forward embodying the old provisions and also the new provisions which have been introduced. Now, here if any technical point is raised as to who is the authority to issue such instructions, I would submit that such instructions can be issued by this House and this House alone. It will be for you to decide whether in the special circumstances that I have mentioned, in view of the importance of the measure that we have to consider and all the previous assurances given by Government, there will be no restriction imposed and the new Parliament will be given full opportunity to discuss all the provisions of the Preventive Detention Act. Government should itself accept the suggestion that I am making and allow the consideration of all the provisions of the principal Act and also consideration of the amendments which have been suggested in the Bill now introduced by the hon. Minister.

I raise this discussion at this stage for this reason. We are now entering upon a discussion of the general principles of the Bill and also of the original Act. It will be better for us to know from now what exactly the scope of our discussion is going to be. I am sure, Sir, the Prime Minister who also spoke on another occasion on this matter, would accept the position that there should be no technical restriction imposed on the new Parliament to consider this whole measure. It does not matter what the House decides at a later stage, but by framing a Bill in this particular manner no technical restriction should be imposed on the House to raise a discussion on the need for amending the provisions of the principal Act where we feel that amendments in many important respects should be made. We have opposed the Bill as it is. That position we have taken up, and that, I submit is not inconsistent with the position that I am taking now. We will no doubt oppose the Bill; we do not feel that there is any justification for the continuance of this Act. I am not going into the merits of this Act now. We will put forward our arguments and in case we fail to convince the House of the stand that we take and fail to secure the consent of the House to circulate this Bill for eliciting public opinion, then our next effort will be to attack each and every provision of the Act and to point out how amendments are necessary in order to save the people who may come under the operation of this Act from unnecessary harshness or oppression. We cannot do that if we are compelled to take a small view of the Act and we are asked to consider only some of the clauses which now Government has proposed. That is the point of order which I wish to raise at this stage.

Shri N. C. Chatterjee: May I submit a few words, Sir? Would you kindly look at May's Parliamentary Practice, paragraph headed "Expiring Laws Continuance Bills"? I ask you to consider, Sir, whether this Bill as introduced by the hon. Minister is really an Expiring Laws Continuance Bill. If you strictly follow the ruling of the hon. the Speaker, you will find that he has relied on this passage in May's Parliamentary Practice. Now what is an expiring laws continuance Bill? "The Operative clause of an Expiring Laws Continuance Bill prescribes that the Acts mentioned in the schedule (or schedules) shall be continued until a specified date..... ." Now I submit this Bill, as drafted by the hon. Minister cannot be called an Expiring Laws Continuance Bill. The test to be prescribed is—that this Act mentioned herein shall be continued only up to a particular date. It deals with and purports to amend substantive sections of the principal Act. Therefore, I submit it would not be right to rely on May's Parliamentary Practice and the ruling of the hon. the Speaker based on the passage in May's Parliamentary Practice to throw out amendments. If you look at the last but one paragraph under that: "The continuance of any Act or part thereof must be discussed on the schedule of the bill when that Act is reached there, and not on clauses of the bill. Thus an amendment may be moved to the schedule to exclude from continuance any Act or distinct provisions of any Act". Now that is an entirely different kind of legislation which is mentioned in May's Parliamentary Practice. Take this Bill. You will find the Act, as it stands. Section 3 as it stands today, has got one clause which deals with the power to make orders detaining certain persons. "The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India..." and so on, then it is necessary to make an order and any of the officers specified in clause 2 can pass the necessary order.

Then, Sir, you will notice in clause 4 of this Bill: "In section 3 of the principal Act,—(i) to sub-section (3) the following words shall be added. ." and substantial alterations are made in the substantive provisions of the principal Act. It cannot be called an Expiring Laws Continuance Bill. Then, Sir, you will notice Section 3 as it stands today has only 3 sub-clauses. Dr. Katju wants to introduce another subsection and the sub-section shall be inserted making some provision that the State Government shall within a certain date send a report to the Central Government and so on. Now I want you to test it in this way. If this sub-clause (4) is passed, can it be said that the old statute would be in operation after the first day of October 1952? From the second day of October, 1952 when the old Act would expire section 3 will be substantially different from the old section and it cannot be urged that the old statute is going to be in operation. It is really a Bill not simply to extend the life of the old Act which is going to expire on a certain date, it is something more and, I submit, substantially something more. Leave aside section 1 which provides for extension. There are substantial amendments to the substantive sections of the Bill. How can any amendment of section 3 be called a continuance of the Act? It cannot be called a continuance of the Act. It is a Bill dealing with the amendment of the old Act. Therefore, supposing this Bill is passed, can it be said that it is a continuation or extension of the old Act? The sections of the old Act have been amended and you are really including new sections......

Pandit L. K. Maitra (Nabadwip): You mean sections that are not specifically in this Bill?

Shri N. C. Chatterjee: My contention is that section 3 which is the operative part of the old Act is being substantially altered, substantially modified by this Bill. There are two amendments sought to be made in section 3: sub-section (3) is being altered and another sub-section is being inserted. Therefore, you are amending the old Act, and substantially amending it. And, therefore, I am submitting, Sir, that you are outside the scope of *May's Parliamentary Practice* which says that amendments which may be moved to a Bill which is an expiring law continuance Bill are subject to the following limitations:

> "An amendment is outside the scope of the bill if it seeks to amend the provisions of the Acts proposed to be continued".

I say this is not an expiring laws continuance Bill. This is a Bill which is seeking to amend the provisions of the principal Act. Therefore, you cannot say that any amendment which we are seeking to introduce here trying to amend the provisions of the principal Act are outside the scope of this Bill. I hope you will be pleased to consider this and give your ruling. Apart from what the hon. Minister has said and apart from his commitments on the general principles also, and the power of Parliament to amend any Bill that is before it, I think—Sir, it will be perfectly in order to introduce our amendments and for Parliament to consider those amendments to the substantive provisions of the principal Act of which we have given notice.

Shri Raghuramaiah (Tenali): At the outset I would like to make it clear, Sir, that it would be wrong to consider this as a Bill merely to continue an expiring Act because whatever it may be there are some alterations proposed in some of the other sections. The passage which my learned friend, Mr. Chatterjee has referred to, as far as I am able to follow, refers to a Bill which merely tries to extend the scope of an expiring Act. Here in this Bill we have got some very beneficial proposals sought to be incorporated so that they take the Bill entirely away from the scope of a Bill merely to continue an expiring Act.

Secondly, as I am able to understand it, the proposition is that no amendments can be moved which affect the principle of a Bill which seeks to extend the expiring Act. Well, "no amendments" does not mean "no amendments in the Bill itself". The Bill itself may alter not merely the duration clause but also certain other clauses. I would like to be convinced, Sir, that the passage which Mr. Chatterjee has read out has application to a Bill which in its own body contains some clauses other than the duration clause. I would like to be convinced that the Government when amending the duration clause of the Act cannot amend any other portion of the Act. I would like to have authority on that point. And, if I may say so, it would be a very great advantage to this House if all the amendments that are to be made to the principal Act are brought forward by the Government in one Bill. As far as I am able to follow my friend has no objection to the amendment of the duration clause—he only does not want the Government to come up with any further amendments now. Is it the suggestion that today we should sit and pass the duration clause, and again the time of this House should be

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taken another day with amendments to the other sections? It would be a colossal waste of time. Therefore, I would say that even from the point of view of economy of the time of the House it is but fair if the whole thing is taken up at one stage and not the duration clause alone now and a little later the other clauses through a fresh Bill. As far as the rulings which the other side has been able to quote, what strikes me is that what they prohibit is a discussion of those principles of the Bill which are not affected by the amendments. You cannot go behind the amendments. You must confine yourself to the amendments. That, I thought, Sir, is the point of the ruling. I would therefore submit that the Bill is in order.

Mr. Deputy-Speaker: On a point of order the discussion ought not to be in the form of a debate but should merely be confined to stating the points. Hon. Members may give their points and reasons and quote authorities—it is no good quoting the same authorities which have already been quoted. Bearing that in mind I would allow hon. Members to state their points if they have got any new points to state. But I would like to ask one or two questions of the hon. Members who have spoken so far. Mr. Chatterjee will kindly tell us if there is no case where it was ruled in the House that there ought not to be a combination of an amendment by the sponsors of the Bill themselves along with a continuance of the existing Act.

Dr. S. P. Mookerjee: I shall give the answer, Sir. I have got the ruling—*House of Commons Debates*, 1874, *column* 1018. The House is laughing, but nevertheless our own Speaker has quoted this ruling only in 1951, a continuity of tradition is maintained in the House of Commons and the ruling laid down in 1874 is still considered good law in the House. We are progressive, we are reformist and we can go on making changes as we like, but apparently our Speaker is a bit conservative and he relied on this ruling. This is what the House of Commons ruling says:

> "The Chairman said, he must remind the Committee that it would be necessary to obtain an Instruction from the House before going into Committee, in order to make changes in a Bill outside its general scope and character. He was, therefore, of opinion—and he had taken occasion to fortify himself by the highest authority he could obtain on the matter—that it would be outside the purview of the Bill now before the Committee to propose to make it, under the semblance of a continuing Bill, a Bill for abridging or amending the provisions of the Acts it professed to continue. The effect of the Amendment of the hon. and learned Member for Limerick would be to bring to a summary and immediate conclusion provisions which, if this Bill did not pass, would continue to exist some time longer. It was quite open to the Committee to say whether they intended to continue any Act, and how much of it; but he was of opinion that it was beyond the province of the Committee on this Bill to introduce into it any such Amendment as the hon. and learned Member for Limerick proposed to make. As to amending the Acts contained in the Schedule, he should have thought there was no doubt, for this Bill was not to amend, but to continue the Acts."

That is the main purpose. The ruling applies in this case also because the main purpose of this Bill is to continue the Preventive Detention Act which otherwise expires on the 1st October, 1952. Along with that Government has proposed certain amendments to the principal Act.

Mr. Deputy-Speaker: The hon Member has not understood my point. Is there any objection in the ruling to the sponsor of the Bill himself introducing an amendment?

Shri N. C. Chatterjee: I have followed your question, Sir. As such, I do not think there is any objection or any illegality involved in that but then, Sir, you might admit all amendments dealing with the clauses of the principal Act and not shut them out under the plea that the amendments were ruled out under that ruling which is based on Bills dealing with continuance of expiring laws.

Mr. Deputy-Speaker: The authorities quoted do not refer to a case where the sponsor of the Bill himself who wants to continue the expiring law introduces certain amendments in the Bill itself and places them before the Committee. The ruling quoted just now refers to a case when it is before the Committee and some hon. Member wants to take advantage of it and rip open the entire Bill. It is only in that connection that those conditions and stages have been referred to in that ruling. What I am asking is whether there is any authority in the House of Commons Debates preventing the sponsor of a Bill while continuing an existing law from amending any portion of it if it offends against the interests of the country.

Dr. S. P. Mookerjee: That is on page 532, to which I made a reference. Here it is laid down how the Bill is to be framed. I shall read the relevant portion, which runs thus:

> "The operative clause of an Expiring Laws (Continuance) Bill prescribes that the Acts mentioned in the Schedule or Schedules shall be continued until a specified date and the amendments which may be moved under such a Bill are subject to the following limitations."

So, if you want to bring forward a Bill for continuing an existing law, you can do it only in that form. You can include one operative clause and mention in it that there is a Schedule in which the different Acts are named. The question would then arise as to what kind of amendments can be moved to such a Bill. There, the limitations are mentioned at page 533. So, the answer to the question you have put is this: "May's Parliamentary Practice" makes it absolutely clear that when the genuine, *bona fide* object of the proposer is to continue an existing law he should move a Bill for continuing such expiring law. You cannot mix up both. You cannot have a *kichri*. You cannot have a section for continuing the Bill and then propose some amendments to the expiring Act. If you do that, you throw open the entire Act before the House and it will be open to all hon. Members to propose amendments to the principal Act. It is not right that the Government should claim for itself a certain privilege which is not enjoyed by and is not to be extended to the other Members of the House.

Mr. Deputy-Speaker: Only the operative clause is mentioned there. But does it in any way say that the operative portion must be in that form?

Dr. S. P. Mookerjee: Yes, Sir. It is also mentioned that the Schedule should be given containing the Acts.

Mr. Deputy-Speaker: It is not said so. Are there not cases here where certain existing laws have been repealed with the exception of particular clauses or sections which are allowed to continue?

Dr. S. P. Mookerjee: That is so.

Mr. Deputy-Speaker: Then what is the point?

Dr. S. P. Mookerjee: I was going to read that out to you, but you said that it was not necessary. That also is one of the practices in the House of Commons. In the Schedule, you can say that the entire Act will continue, but you cannot add to or modify any Act. If need be, you can omit certain Acts.

Mr. Deputy-Speaker: I am not talking of Acts. I am talking of sections of the previous Acts. Can you not say, "With the exception of Section 4, Act so and so is repealed?"

Dr. S. P. Mookerjee: There the procedure is that you mention in the operative clause that the Acts mentioned in the Schedule shall be continued until a specified date and in the Schedule you will say "Act so and so" omitting certain sections, if you want, of that particular Act.

Mr. Deputy-Speaker: What is the procedure in a case where some sections are omitted and others are allowed to continue? Is it the practice of the House of Commons to allow amendments to the remaining sections?

Dr. S. P. Mookerjee: Amendments are allowed only for the purpose of omitting entire sections of the Principal Act. No other amendments are allowed.

Mr. Deputy-Speaker: Not amending them?

Dr. S. P. Mookerjee: You can omit certain sections. That is allowed.

Mr. Deputy-Speaker: That can be done even here.

Dr. S. P. Mookerjee: You can move amendments only to the Schedule and the amendments will take only this form, that section so and so of a particular Act be omitted. Nothing beyond that is allowed. Here, what is sought to be done is not only to continue the provisions of the old Act but also to make certain amendments, to modify to insert a new clause. If Government feels that that is necessary,—and I am not saying that it is not necessary from the point of view of Government,—then my point is that opportunity should be given to the House to consider the entire Act. I am asking you to consider not the technical aspect—I am not interested in the technical aspect—although the technical aspect is important in so far as it will give us certain actual rights to consider the entire Act. Let us look at the matter from a practical point of view and agree to consider the entire Preventive Detention Act and amend or modify or drop certain sections as the House may decide.

Mr. Deputy-Speaker: It is not necessary for me to hear any more arguments. What I feel is this. I have heard the rulings quoted by Dr. S. P. Mookerjee. The hon. Speaker has said that these do not stand in the way of a discussion taking place on the Bill generally. The discussion may take place on the several clauses of the

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original Act. When we come to the actual clauses of this Bill, then this question will arise for consideration and we shall have to see whether any amendment ought to be allowed or not. We may also have to consider, if a motion for reference to Select Committee is accepted, whether we should give any instructions to the Select Committee on this point or not. We shall consider it a little later. Meanwhile, the discussion may go on.

Pandit L. K. Maitra: Is it the substance of your ruling that in the course of the general discussion it is perfectly open to any Member to discuss the main principles or provisions which are not expressly included in this Bill but which are embodied in the parent Bill, and only when a question arises as to whether amendments should be tabled with respect to them that you will give your ruling?

Mr. Deputy-Speaker: Yes.

Pandit L. K. Maitra: Further, is it your ruling that if a motion for Select Committee reference is accepted, and if at that stage the House wants, it can give specific directions to the Select Committee regarding the amendments?

Mr. Deputy-Speaker: That is the ruling already given by the hon. Speaker, with respect to the Ajmer-Merwara legislation when this matter was raised. It is open to the House to suggest how dangerous it is in some matters that the original Bill should be allowed to continue. Members may point out the matters which had not been touched before an appeal to the House to throw out the Bill as a whole at the consideration stage. A reference can be made to all those matters in general terms and try to influence the House to accept the consideration motion or reject it.

Shri Gadgil (Poona Central): May I submit that the hon. Speaker's ruling is that there is no scope for having a full discussion of the principles of the old Act. What he said was this:

> "It must be borne in mind that in the case of a Bill to continue an existing law, the substantial principle of the legislation had already been accepted by the House when the law was passed and that therefore though it will be competent to have a general and summary review of the way of its working or administration and to suggest improvements or point out difficulties, it will not be permissible to amend this or that section."

Therefore the scope of the discussion is not as wide as it sought to be made out. We cannot discuss the principles on which the old Act was based, but we can have a summary and general review of its working and can incidentally point out its defects.

Pandit L. K. Maitra: This is not an expiring Act at all in that sense.

Mr. Deputy-Speaker: It is only with respect to modifications we have to consider exactly the circumstances and find out whether there is any need or not. Those matters will certainly be considered by the House. So far as amendments are concerned, we shall reserve the decision to a later stage. The discussion may go on after I have placed the motion before the House. There are as many as nine motions for circulation; but no date has been given.

Shri N. C. Chatterjee: It is given in amendment No. 105 which reads:

> "That the Bill be circulated for the purpose of eliciting opinion by the 15th October 1952."

Mr. Deputy-Speaker: Then Mr. Gurupadaswamy may move that amendment.

Shri M. S. Gurupadaswamy (Mysore): I beg to move:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th October 1952."

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved-Sch.-Castes): I have given notice of an amendment.

Mr. Deputy-Speaker: Under the rules it is open to the Speaker to choose anyone of the amendments relating to the motion. The other amendments relating to circulation are not allowed to be moved. The hon. Member may make his speech. Then I will call another hon. Member to move one of the amendments relating to reference of the Bill to Select Committee. Then a general discussion will follow.

Shri Damodara Menon (Kozhikode): Does it mean that the other Members who have tabled amendments for circulation cannot speak?

Mr. Deputy-Speaker: Yes, they will get a chance.

Shri M. S. Gurupadaswamy: Before I go into the question of the amending Bill, I want to bring to the notice of the House a famous anecdote of philosopher Confucius. When Confucius was passing by the side of a mountain he saw an old lady weaping by the side of a grave. Approaching her he said that she looked like one who had suffered sorrow on sorrow. To that she replied: "Yes, my father-in-law died at the hands of a tiger; my husband died in the same way and now my son also has died in the same manner." Confucius asked her, "Why are you not leaving this grave?" To that she replied: "I do not want to leave this grave, because here there is no oppressive government. Then Confucius turned to his followers and remarked: "My dear fellows, remember oppressive Government is more terrible than tigers."

I want hon. Members opposite to remember this famous saying of Confucius. The oppression of Government is far worse than grave.

Mr. Deputy-Speaker: Grave yards are State subjects.

Shri M. S. Gurupadaswamy: I say that this piece of legislation that has been brought forward by the hon. the Home Minister is most uncivilised: it is most brutal, not only brutal but very oppressive, not only oppressive, but very barbarous. This makes an arbitrary encroachment upon the liberties of the subjects. The only object of it seems to be to curtail the liberties of citizens in India.

Only four years ago we secured independence and we have not yet known what are the various aspects of independence. We are not even tasting some of the fruits of independence. Within such a short time, when we are not yet completely free, this measure has been brought by a responsible Government, by a Government which is manned and run by the representatives of the people to curtail the liberties of the people. It is a very sad state of affairs.

There is a famous saying in English: men get power in the beginning, then they use power, then they misuse power, then they lose power. The Congress Members got power; they used power; now they misuse power and in course of time they may lose power. But I want them to remain in the seat of Government for some time, till, we, the opposition party, grow in strength and replace them, functioning as an alternative Government, as happens in any democratic country. Till then we want them to remain in power. Till then they must be responsible; they must be true representatives of the people; they must consolidate our newly won independence and they should not in any way do any act or take any action to curtail the fundamental rights of the citizens of India.

To my mind, this piece of legislation is monstrous. It declares a sort of war against the independence of man and takes away all the blessings of independence of the country. This should not be tolerated for one moment. I say with great feeling that today is a very black day in our history. We expected that this black piece of legislation would not be brought forward again. But unfortunately the hon. the Home Minister has thought otherwise. This measure does not do credit to our nation, and is bound to create a wrong impression in other countries. An impression will gain ground that though we are free from foreign domination, we are not enjoying the fruits of that freedom, that though we are free from foreign enslavement, we are not free internally. So we should not give any room to foreign countries to make propaganda in the outside world and we should not allow them to mar our prestige or to bring down our name in the international councils. We are making a sort of a compaign against the treatment of Indians in South Africa. We are making a sort of a campaign against the treatment of Indians in Ceylon and the treatment of Indians in other parts of the world. We are espousing their cause and the cause of their liberty. But here we have a sad drama, a dark spectacle where our own representatives who are occupying the seats of power are behaving in a bureaucratic way, a way in which the Britishers were behaving previously. That is a very painful state of affairs. This should not be allowed to happen. We should draw lessons from history. When there is too much of repression, when there is too much of curtailment of liberty, when there is too much of exercise of authority over people, the people will rebel. It is but natural. You must draw lessons from French history, from Chinese history and American history. If you do not learn those lessons of history, God only save the country, God only save the people who are ruling us.

An Hon. Member: There is no God on that side.

Shri M. S. Gurupadaswamy: There is God. We are believers in God as much as you are. We have God.

Today, as I said, is a very black day because today we are witnessing
day because today we are witnessing
the so-called responsible Government coming with a piece of legislation to do away with all the achievements that we have so far got in the name

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of freedom. In the name of democracy, in the name of public security and order the Home Minister is bringing forward this piece of legislation which is nothing but undemocratic. It is nothing but tyrannical. The Home Minister, looks to me like a Draconian, a representative of Draco in India, and this piece of legislation also looks Draconian in character. This should not in any way be allowed to be passed by this sovereign House.

Conditions do not exist today which demand the extension or continuation of this Act. India is peaceful, India is calm, people are living their own lives, there is not much disturbance, there is not much act on the part of individuals to subvert the peace of the land, everything is normal and quiet. When such is the case, where is the necessity for this piece of legislation? Of course the hon. the Home Minister may say: the Constitution of India allows it. The Constitution of India allows so many things—the liberty of the subjects also. But the Home Minister does not take care to see that the liberties are properly protected. Here we are seeing the traditional drama of conflict between the authority and the individual, between liberty and order, between Government and the subject. I do not want this drama to be repeated in India where we have achieved independence just four years ago. Circumstances do not exist today for such a piece of legislation to continue in our land. (*Interruption*). I do not want to be interrupted.

11 A.M.

Mr. Deputy-Speaker: Hon. Members may hear with patience. Feelings are likely to be roused leading to emotions and passions. I would urge upon hon. Members to observe decorum. Let any hon. Member who speaks be allowed to speak without any interruption, unless he uses unparliamentary language in which case those words can be brought to the notice of the Chair if the Chair does not take notice of them directly. So far as the relevancy and other things are concerned, the Chair will be cautious and rule out all irrelevant matter or avoid repetition. If any hon. Member has got a doubt to be cleared from the hon. Member he will kindly note it down and after the completion of his speech before he sits down those questions may be put. And if he is willing to answer them he will do so. Thus on either side this rule may be observed. It is open to hon. Members to reserve those questions or points when they are allowed to speak. Therefore this rule may be observed so that we may avoid heated discussions and interruptions and not repeat any of the unfortunate incidents.

Dr. S. P. Mookerjee: Light interruptions may be allowed.

Shri M. S. Gurupadaswamy: We have seen in history the tyrannies of despots, the despotism of tyrants and the mis-rule of rulers. But I have not seen yet, in the name of democracy, despotism being enacted in a systematic and scientific way. I humbly submit that the tyranny of a tyrant is far better than the tyranny of a majority government. Here the Congress Party which is in power, thinking that they enjoy the backing of the nation, deem it that this piece of legislation also would get reception from them. It is a very illogical conclusion. So far as this issue is concerned I am sure the nation does not stand by them. Let them make this an issue and go before the electorate and I am sure they will not be returned to power. We will be returned to power, I am sure of that.

I would like to make another submission. The preventive Detention Act in its original form is bad. The hon. the Home Minister has brought up some amendments which he says are intended to have a salutary effect in future. But I feel that the amendments that have been brought forward are not at all giving any relief, they are not at all in any way progressive. They want to continue the original Act for nearly two years. Till today we have been continuing the Act by one year. Now the Home Minister wants the continuation of the Act till the end of 1954. Where is the necessity of continuation of the Act for such a long time? Does the Minister anticipate any revolution, any insurrection, any revolt in the future? Is he deriving justification on the score that in the future there may be some trouble? This anticipation, I say, is too much. It is too illogical. If there is to be any extension, there may be an extension for a few months. Now the session of Parliament may close by next month and he may need an extension of this piece of legislation for a few months till we meet again. If there is a necessity, if there is a compelling force of circumstances which demand that this legislation should be continued further, then it may be taken up in the next session. So I want to ask him why there is such a mad hurry and haste in continuing this legislation for a number of years. I do not want that this nation should be ruled by this piece of legislation for a long time. I want to warn the Government that this piece of legislation, if it is introduced and passed, would create chaos in the land. The purpose of the act seems to be to establish law and order. But it will not be so. It will only encourage fissiparous tendencies and subversive elements who will subvert not only the Constitution but will subvert the security of India. It will create a lot of agitators in the country. It is an invitation for disturbance and for anarchy. Therefore this legislation does not in any way serve the purposes for which it is intended, because we are seeing that there is a great amount of agitation going on throughout the length and breadth of this country against this measure. There are so many friends on the Government benches who are also feeling like us, but unfortunately they are under the whip of the party. (*Some Hon. Members*: No, no). If you want to know their feelings, have a secret ballot and then you will know their opinion. While conversing with them so many of them have said that this is an unnecessary piece of legislation. If this legislation is to form part and parcel of our Statute book, it will not in any way encourage security, calm and peace in the land but it will disrupt it. It will encourage meetings to be organised; it will encourage people to condemn this Act in the open. I hope that it is not that which our Minister wants. In view of these circumstances, I feel that this measure is untimely and unnecessary.

Now I come to certain points in the legislation itself. The people are feeling that this piece of legislation is very reactionary because the Act does not allow an individual who is arrested and detained to appear before a court of law; it does not allow to cite witnesses, and witnesses cannot give evidence. Further this does not allow lawyers to argue on behalf of a detenu. These are matters which are necessary to protect the rights of an individual. When these fundamental rights of an individual are negatived, then democracy cannot last for long. We are wedded to the rule of law. The rule of law demands that there should be a trial. Before arresting an individual a notice should be given. Then the particulars should be drawn up in the form of a charge sheet and it should be made known to the individual who is arrested. He must be given an opportunity to defend himself before a regular court of law in the ordinary manner. But all these rules of law have been overlooked. Therefore I say that this piece of legislation is a subversion of the rule of law in the land. It is a war against the ordinary citizen. It is a war against the rule of law in the land. So this measure which does not give an opportunity to the individual detained to appear bfore an ordinary court of law to defend himself, which does not allow him to cite witnesses and which does not allow the appointment of a vakil or a lawyer to defend him should not be allowed to be passed in this Parliament.

The original Act does not make a distinction between arrest and detention. They are two separate acts, and should be distinguished as such. The original act contemplates that as soon as a Police Officer or a magistrate wants a particular individual to be arrested, then he can be immediately taken to prison and he can be immediately detained. That should not be the process of law. The act to arrest and the act to detain should be separate and as I pointed out the original act does not make a distinction and that distinction should be made from the point of view of natural justice. There are cases where people are detained by an oral order and not by a written order. There is the case Anwar Begum *Versus* Commissioner of Police, A.I.R. 36, 1949. Bombay. In this case a person was arrested by an oral order and not by a written order. If freedom is allowed to the officer concerned, to arrest a person by an oral order, anybody can be arrested at his whimsical will. Later he may be released but within that time enough harm is done to the individual concerned. I say this is undemocratic. Further the original act does not draw a distinction between the cases that come under the State Governments and those that come under the Central Government. The hon. the Home Minister yesterday was reading out from the Schedule to the Constitution Act. He was saying that, the question of public safety and the question of essential goods will come under the perview of State Governments and the question of defence, the security of the land and the conduct of foreign affairs will come under the purview of the Central Government. This distinction has not been made in the original Act. All these things have been grouped together under one section. So power is given to the State Governments to arrest a person on the ground that he was doing something against the security of India and he was doing something prejudicial to the relations of our country with other countries.

Mr. Deputy-Speaker: It is not in the State list but it is in the Concurrent List.

Shri. M. S. Gurupadaswamy: I know that it is in the Concurrent List but it is always necessary that a distinction should be made. The jurisdiction

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should be limited. The jurisdiction of the Central Government and State Governments should be defined with regard to these matters, and the State should not be given any room to arrest a person for an act which is prejudicial to the defence and foreign affairs of India which come directly under the purview of the Central Government. It is illogical. There is too much of muddle thinking on this issue. I want that there should be some clarity and sanity.

Then according to the wording of section 3 the Government must be 'satisfied' before making an order of detention. The word 'satisfied' is not defined. Of course, the 'satisfaction' should be reasonable and it should be justifiable. But I know there are various cases where there is no satisfaction of arrest at all while the arrest is being made by the officer concerned. Unless there is full and reasonable satisfaction that a man or an individual is acting prejudicially to the security of India or the defence of India or the law and order of a State, he should not be arrested. Unfortunately in the Act there is no definition of the word satisfaction. On account of this ambiguity, many difficulties have arisen in dealing with cases. Courts have also pointed that it is a lacuna in the Act and they have been very much puzzled as to what is meant by satisfaction. Unless the grounds are satisfactory, unless the particulars furnished by the detaining authority are relevant, are cogent, and logical, it is not easy for us to say that the officer concerned is satisfied, as regards the arrest or detention of the man. It is therefore necessary to define the word 'satisfaction'.

Then, some courts have drawn a distinction between preventive detention, punitive detention and arbitrary detention. They have found it very difficult to draw this subtle distinction. The purpose of punitive detention seems to be to punish a man for having committed an offence, to take action against a person who was already engaged in the commission of a crime. Preventive detention seems to aim at preventing a person from committing an offence in the future. It is very difficult to draw distinction between punitive detention and preventive detention, and preventive detention and arbitrary detention. I think that unless there is a definition of these terms, it will be very difficult for the Judges to deliver their judgments in these matters. It is better from the point of view of clarity and from the point of view of reducing ambiguity, that these terms are defined.

Lastly I have to submit that this Bill is not likely by the people. (*Dr. P. S. Deshmukh*: Question). The people of India do not want this legislation. The ordinary law of the land, that is the criminal law of the country, is enough to deal with all cases of subversion. We must have full faith in the people themselves. We are a democratic country. We must respect our people and our people would respect any thing that is reasonable and would obey any reasonable order of the Government. We must believe in the good sense of the people. If you disbelieve the people, which this Act purports to do, then, the people will disbelieve you. I do not want to create this sense of disbelief among the masses against the Government. I want it to be avoided. If the Government does not want to disbelieve the people, if the Government have got faith and confidence in them, why should they bring this piece of legislation? Against whom will it be used? If there are subversive elements in certain sections of the community, if there are miscreants, *goondas* and hooligans who are operating in certain areas, the majority of the people who are law-abiding and peaceful will take care of them.

Dr. P. S. Deshmukh: Under what law?

Shri M. S. Gurupadaswamy: So where is the necessity for this piece of legislation? Only have faith in the people. That faith alone will save you. That faith alone will help you to establish peace. This piece of legislation, because it has been brought in this form, makes one to think that the Government has no belief, no faith, no confidence, no respect for the people. Only by withdrawing this piece of legislation you will create such impression. Only by withdrawing it you will be able to give sufficient scope for the people to participate in the task of peace in a much more effective way. If you alienate the sympathies of the people it is not possible to have real peace. You will only make democracy a corpse. I do not want democracy to become a corpse; I want it to be a live one. I do not want the blessings of freedom to be cast away; I want them to be enjoyed. In the name of a few individuals who are reckless, in the name of a few individuals who are likely to be subversive, you should not impose this ugly, abortive and monstrous legislation on the entire public. This will make our country more and more undemocratic. This will alienate the sympathies of democratic people outside India. It will bring down our fair name and prestige in the whole world. So, I want this piece of legislation, before it is being enacted, to be circulated for eliciting the opinion of the people. Unless this is done, we are not entitled to pass this legislation or even discuss it in this House. We may be sovereign here; but this sovereign Parliament represents another sovereign. That sovereign is the people. They are the real sovereign. You must respect the sovereignty of the people. Laws and legislation should be referred to their opinion and their opinion should be taken before a law is passed.

With these words, I conclude.

Mr. Deputy-Speaker: I shall place the motion before the House.

Amendment moved:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th October, 1952."

Now, there are a number of Motions for reference to the Select Committee. I will choose one of them. When that is also moved, there would be a general debate both on the motion for consideration, the motion for circulation and the motion for Reference to a Select Committee. Is there any difficulty?

Shri Jawaharlal Nehru: In view of the fact that this is an important Bill, I submit that it would be better to have a Joint Select Committee of the two Houses. There is a provision in our rules for Joint Select Committees. This is the first occasion, I believe, that such a motion is being made. Our rules are not absolutely clear as to what the procedure to be followed ought to be. If I may submit for your consideration, we might have a motion for a Joint Select Committee and in that motion the names of the Members of this House may be mentioned. Then, we may ask for the concurrence of the other House and for the names of the Members of that House to be sent to us. We cannot obviously choose the Members of the other House. But, in terms of our rules, we can ask for a Joint Select Committee, nominate our own Members and ask for a certain number of Members and the concurrence of the other House to it. If that procedure could be followed, I submit, that would get over any difficulty.

Sardar Hukam Singh (Kapurthala-Bhatinda): What about the number of Members from this House and the other House? Can we fix it here?

Some Hon. Members: Two to one.

Shri Jawaharlal Nehru: Roughly speaking, it should be in the proportion of the Membership in the two Houses.

Sardar Hukam Singh: My question was whether we can fix that number here.

Shri Jawaharlal Nehru: No, no. We only make a proposal. We ask their concurrence to it in this particular matter. Later on, of course, we may frame rules for this purpose clearly. We have not got clear rules now. Therefore we are making a suggestion. I have little doubt they will agree in this matter if the Members are in proportion to the Membership of the two Houses.

Shri Velayudhan: Without introducing the Bill in the Upper House, can we select Members from that House?

Shri Jawaharlal Nehru: We are not selecting them.

Shri Velayudhan: Without introducing a Bill in that House?

Mr. Deputy-Speaker: What the hon. Member evidently means is this. This Motion for Joint Select Committee is carried and the names of the Members who are Members of this House will be given. Naturally, the motion will go to the other House also. But, it is only after passing a Bill here, there is a procedure to send it to the other House. There is no objection to introduce the Bill in the other House also. In the other House, a similar motion may be made for reference to the Select Committee.

Shri Jawaharlal Nehru: I submit Sir, that it is very difficult, apart from this Bill, for other Bills too. That would involve the simultaneous introduction of Bills in both the Houses which I imagine will create many difficulties and if we have that procedure and we cannot do it, then it simply means we cannot at all have a Joint Select Committee according to our rules. Therefore, I submit this is a matter not for us to determine. We ask the Chairman of the Council to send the names. We are not cognizant of what they have done and what they have not done. It is for them to decide. If they say "We cannot join in this Committee", we are sorry. We have given them an opportunity. We have invited them. But, if I may mention it, the Chairman of the Council of States has both formally and informally, and both on his own behalf and on behalf of his House, pressed upon us this point of view that there should be Joint Committees. I am not talking about this particular measure. As a principle there should be Joint Committees, and we have given this assurance to him that in all important Bills, we would welcome Joint Committees. Of course, in some minor Bills it would not be necessary. So

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this assurance has been given and the demand has come from the Council of States, and I submit in dealing with this question which is obviously important, we should give effect to that undertaking. If some technical difficulty arises on the other side, it is for the other side to decide. So far as this House is concerned, we should give them this invitation.

Shri N. C. Chatterjee: May I inform you, Sir, that the Prime Minister's suggestion is quite in order. So far as the House of Commons practice is concerned, Joint Committees composed of Members of both the Houses are appointed from time to time at the instance of one House or the other. If either House considers it expedient that a Joint Committee should consider some matter or that a Bill should be committed to a Joint Committee, it passes only a resolution to that effect, and sends a message to the other House to invite it, or the resolution itself, and desires its concurrence. If that concurrence is given then the Joint Committee can function.

Mr. Deputy-Speaker: Rule 74 (1) contemplates this. It says:

> "When a Bill is introduced, or on some subsequent occasion, the Member in charge may make one of the following motions in regard to his Bill, namely :—
>
> (i) that it be taken into consideration; or
>
> (ii) that it be referred to a Select Committee of the House; or
>
> (iii) that it be referred to a Joint Committee of the Houses with the concurrence of the Council; or"

What is passing in my mind is: how is that concurrence of the Council to be ascertained?

Shri Jawaharlal Nehru: By a reference to them.

Mr. Deputy-Speaker: Later on, Rule 75 (2) (a) again, says:

> "If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee of the House, or a Joint Committee of the Houses with the concurrence of the Council."

Shri Jawaharlal Nehru: I submit, Sir, in the future rules that might be made, the only way to do it is to see that we seek the concurrence of the Council and ask them to nominate their Members.

Mr. Deputy-Speaker: It may be interpreted that when we seek their concurrence, it is one House that appoints a Joint Committee. We ask for their concurrence and the names of their Members. I think no more resolution is necessary. It is open to them to give the names in whatever form they like. If they do not concur, their names will not be given. Our names will stand, and there will be a single Select Committee.

Shri Damodara Menon: Before this motion for reference to the Select Committee is made, we should debate on this motion for circulation for eliciting opinion, and afterwards come to a decision.

Mr. Deputy-Speaker: My difficulty is this. As hon. Members are aware, with respect to each amendment, an hon. Member can speak in the House. These are all motions by way of amendment to the regular motion for consideration. One motion is different from the other motion. Am I to call upon some hon. Member who has spoken on the motion for circulation once again to speak on the motion for reference to the Select Committee also? How long are we to sit? It will take a lot of time for considering the motion for consideration, the motion for circulation and the motion for reference to Select Committee. Every hon. Member is entitled to speak if I put them separately. That is my difficulty.

Dr. Katju: Only three or four days back on the Criminal Law Amendment Bill or some other Bill, there were two motions: one a motion for circulation for eliciting public opinion, and another for reference to the Select Committee. Both motions were formally moved, discussed and then the hon. Speaker put the motion for reference to the Select Committee first, and when it was carried, the other motion fell through.

Mr. Deputy-Speaker: If the hon. Members want that the motion for circulation ought to be taken up first, there is no objection. I would like to avoid two debates on the same matter.

Shri H. N. Mukerjee: You should exercise your discretion in selecting the speakers, and ask them not to repeat the arguments already made out. After all a motion for circulation has a certain character and quality of its own which we wish to emphasize before this House.

Mr. Deputy-Speaker: Hon. Members who wish to support the motion for circulation may do so, as also those who wish to support the motion for reference to the Select Committee, and ultimately, hon. Members who have heard both may come to conclusions of their own. So far as Members on the Select Committee are concerned, if there is the difficulty that unless one motion is negatived, they will not agree to sit on that, . then, some names may be given, and I will allow hon. Members who want to give other names to be Members of the Select Committee later when the motion is put. Now I will call upon...

Shri H. N. Mukerjee: Before you call upon the speakers, the circulation motion being of a different character, has got to be adjudicated upon first of all by the House, and that being so, if there is a juxtaposition of arguments in between, there might be some difficulty. I submit, Sir, that speakers here certainly should be responsible enough not to repeat arguments *ad nauseum* and that being so, there could be a bifurcation of discussion, and in the beginning we might concentrate on the circulation motion.

Mr. Deputy-Speaker: I do not agree. and the hon. speaker knows how difficult it is to ask the Members to be relevant. It is very difficult and then I cannot bring the axe down. And then in debating the motion for circulation, we will assume an hon. Member is for the motion for reference to the Select Committee. Is it not open to him to say: "The motion for circulation is a dilatory motion. I am in favour of the motion for reference to the Select Committee. I will accept it." He may even plead in answer to the motion for circulation that the motion for reference to the Select Committee is not placed before the House. I cannot see how one impedes the progress of the other. Both may be taken up simultaneously. If both are before the House, an hon. Member who has moved or supported the motion for circulation may say: "This is a matter in which the principle itself we do not accept". The other person may say: "The principle is good. Let it go down for circulation." I therefore rule that both be allowed and the debate for the original motion for consideration and the amendment for circulation be carried out. But I will take care to see that the motion for circulation is put first, the opinion of the House is elicited, and then, after its decision on the motion for circulation, the other motion will be taken up. If it is thrown out, the other motion for reference to the Select Committee will be taken up for voting. The discussion will proceed immediately.

Shri Dhulekar (Jhansi Distt.—South): May I suggest that the third motion for reference to a Joint Select Committee may also be moved so that all of them may be discussed.

Mr. Deputy-Speaker: If any hon. Member does not want to move the motion for reference to Select Committee, I will immediately make a motion for reference to a Joint Select Committee.

Sardar Hukam Singh: My motion for reference to a Select Committee is a bit definite because at the end it reads: "with instructions to report by the 25th July, 1952, after considering all amendments even to those sections of the Act of 1950 which are not sought to be amended by the present Bill, of 1952." So, what would happen to that? You have selected the motion of Dr. Deshmukh, but my motion has a different point.

Mr. Deputy-Speaker: The wording in this motion for reference to a Select Committee is "after considering all amendments even to those sections..." That depends largely upon the decision which I have reserved for the future as to whether those other amendments are in order or not. If they are allowable at the Select Committee stage, they can be taken up for consideration. That is another matter.

Sardar Hukam Singh: This is a different motion. When it is made all facts are brought out, and then you will be able to come to a decision.

Dr. S. P. Mookerjee: Subject to the ruling of the Speaker to be given later on.

Mr. Deputy-Speaker: Very well. I will allow him to move independently.

Dr. P. S. Deshmukh: With your permission, Sir, I shall give the list of Members a little later.

So far as the difficulty about the Joint Committee is concerned, I suggest that after my motion is moved, there can be a subsequent motion modifying my motion and adding the words which will make it possible for the Members of the Council of States to come in. I think the discussion is likely to be prolonged, and so there would be ample time for amendment of my motion.

Mr. Deputy-Speaker: That will be by an independent motion.

Dr. P. S. Deshmukh: I beg to move:

> "That the Bill be referred to a Select Committee consisting of Shri M. A. Ayyangar, Shri T. Subrahmanyam, Shri Balwantray Gopaljee Mehta, Shri N. P. Nathwani, Shri H. V. Pataskar, Shri B. Shiva Rao, Shri A. M. Thomas, Shri Algurai Shastri, Pandit Balakrishna Sharma, Shri T. N. Singh, Shri Feroze Gandhi, Shri

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A. P. Sinha, Shri L. N. Mishra, Shri L. K. Maitra, Shri Syed Ahmed, Shri B. K. Das, Shri H. C. Heda, Shri B. K. Borooah, Dr. S. P. Mookerjee, Shri N. C. Chatterjee, Shri Jai Pal Singh, Shri Jaswant Raj, Shri Sarangdhar Das, Shri Damodara Menon, Shri G. S. Altekar, Dr. K. N. Katju, and the Mover with instructions to report by the 25th of July, 1952."

Shri Velayudhan: Have you got the consent of all these people?

Dr. P. S. Deshmukh: They can drop out, if they do not want to serve on the Committee.

Dr. S. P. Mookerjee: I do not know whether I should mention this at this stage or not—our consent was given under certain conditions namely that the entire Act will be allowed to be considered by the Select Committee. So until that question is decided, it is not fair that the names should be read out. I do not know what the hon. the Prime Minister's reaction is.

Mr. Deputy-Speaker: But my ruling has been reserved.

Shri Jawaharlal Nehru: There is no question of the Prime Minister's reaction about this. Nobody can be compelled to serve against his wishes in a Select Committee. If what the hon. Member said is quite correct, I do not know what happens. Since names were desired, some names have been put forward. Those names can be changed. If any Member does not wish to serve on the Committee, his name can be removed, and some other name can be put, when that time comes. As it is, the Deputy-Speaker wanted some names immediately, and so some names have been put forward.

Dr. S. P. Mookerjee: The question whether the entire Act will be allowed to be considered by the Select Committee is a matter for Government also to consider, apart from the ruling that may be given by the Chair later.

Shri Jawaharlal Nehru: That is a matter on which discussion is taking place, and the matter has been referred to the Speaker. Those people who find it inconvenient to serve on the Committee may allow their names to stand over. The proper thing before giving the names was to have their assent. It is not a negative one. If assent has been taken, and if some hon. Members have some difficulty, then their names need not be mentioned at this stage. They may be mentioned at the end of the discussion while the motion is put to the vote of the House, and then any suggestions regarding names may be made. I do not think it will be a serious objection then.

Dr. S. P. Mookerjee: Then it would be better, that our names are not included; the names which are of a tentative character may be excluded.

Shri Sarangadhar Das (Dhenkanal—West Cuttack): I wish that my name and that of Damodara Menon should be dropped altogether.

Shri T. S. A. Chettiar (Tiruppur): In the motion, there must be a request to the other House to nominate their Members also.

Mr. Deputy-Speaker: That is an independent motion. The present motion is for a Select Committee of this House. There will be another motion later for a Select Committee consisting of Members of both the Houses.

Shri T. S. A. Chettiar: My point is that in the same motion, for reference to a Select Committee, there should also be a request that the Council of States may be requested to appoint a certain proportion of its Members to serve on the Select Committee.

Mr. Deputy-Speaker: The present motion is not a motion for reference to a Joint Select Committee.

Dr. Deshmukh's amendment is No. 140 in list No. 5.

> "That the Bill be referred to a Select Committee consisting of...... with instructions to report by the 25th of July 1952."

Dr. S. P. Mookerjee: Under rule 74 of the Rules of Procedure, provision already exists for a motion to refer a Bill to a Joint Committee of both the Houses, with the concurrence of the Council of States. The hon. Member can do it even now.

Shri Jawaharlal Nehru: That is the proper form. If I may suggest, it should be of this form:

> "That this House do recommend to the Council of States that the Bill further to amend the Preventive Detention Act 1950, be referred to a Joint Committee of the two Houses, and that the Joint Committee do consist of...... members from this House, and...... members from the Council of States."

and this House will give the names in this motion.

Dr. P. S. Deshmukh: I am prepared to accept that suggestion and incorporate it in my motion, which will read as suggested by the hon. the Prime Minister.

So far as this Bill is concerned, much ado has been made. I have no hesitation in saying that and I agree with the hon. the Mover of the Bill, that it is really a simple one. The principle behind this Bill was debated at length in the Constituent Assembly, and then heartily adopted. It was after that, that the Preventive Detention Bill was framed and accepted by the previous Parliament. There were certain modifications later, and an amending Bill was passed by this House without challenging the original principle and basis of the Bill. So we have this position now. The preventive detention principle was approved by the Constituent Assembly, it has been incorporated in the Constitution, and later on a Bill to provide for the circumstances, penalties etc., was brought forward, and was adopted and approved by the Parliament. The principle of the Bill was again reiterated when certain modifications were effected. Thus we have had the approval as also the ratification of the principle behind the original Bill on so many occasions.

So far as this Bill is concerned, I am really surprised that the hon. Members are talking so much about it, much in the same strain as if there had been no change brought about. In their zeal for civil liberties they clearly forgot that the Bill seeks precisely to protect the civil liberties of the majority of the people. If there is one sense in this enactment it is this that it seeks to preserve the civil liberty of the majority of the people, of more than 99 per cent. of the people, against what a few mischief-mongers, or a handful of misguided people may try to do in the country. So, this preventive detention is merely to stop and prevent the mischief of these people only and not for the suppression of the people. My hon. friend from Mysore who was very eloquent has probably made a very fine collection of all the words that could be used against an oppressive and despotic Government. He has made a fine collection indeed, and has made accusations which are totally unfounded and which are totally out of tune with the circumstances in this country. I do not think that the present Government headed by our hon. the Prime Minister deserves such a sort of language, when day after day we have the instances of how he treats the opposition with much more courtesy than many Members on this side of the House at any rate would like to extend.

Shri Velayudhan: On a point of order, Sir. If the hon. Member entirely supports the principle of the Bill, then why should he bring in a motion for referring it to a Select Committee?

Mr. Deputy-Speaker: That is no point of order. The hon. Member has done it only to satisfy the Opposition, and he may say so.

Dr. S. P. Mookerjee: The attempt is to make the Bill perfect.

Dr. P. S. Deshmukh: Actually the Bill that has been brought forward is in consonance with the attitude of this Government. It does not try to restrict or impose greater restraint. Even the present Bill which has unnecessarily been attacked on the ground of being out of order, or on the ground of technicalities or on the ground of admissibility, I do not think, deserves that sort of treatment at the hands of even the Members of the Opposition. This is a Bill which seeks to give greater concessions and rights to the people, if in any case a person has to be detained under this law. And in every clause and in every instance, it does not wish to take any arbitrary powers in its hands. On the other hand it makes the law more liberal in trying to give every opportunity to the person who is detained to explain his case; by having a Central Act, so that there will be no excesses against which there have been complaints in the past. It is for such purposes that this Bill has been brought forward.

I am not one of those who will hazard a statement that every case of preventive detention has been justified. There may have been mistakes, there may have been certain misapprehensions which were ultimately found to be unjustified, or proved to have been unjustified in the present context. But I have no doubt, that constituted as we are in this country at the present moment, there is need to have on our Statute-book a law of this nature, a law which is being liberalised every day, and it will depend upon the conduct of the Members of the Opposition, especially of a particular group of it, whether India needs a legislation like this or not. It is for them to prove that such legislation is absolutely unnecessary.

Sardar Hukam Singh: It was said by the hon. Home Minister that it was not intended for any particular group. Now we are told that it depends upon the attitude of the Opposition Members.

Shri Velayudhan: He said even 'misguided people'.

Mr. Deputy-Speaker: Every hon. Member is entitled to express his own views and make his own suggestion. Why should hon. Members on the left side contrast what an hon. Member on the other side says with a Minister's statement and say he.........

Dr. S. P. Mookerjee: He is stating on behalf of the Government.

Mr. Deputy-Speaker: I am not going into that matter. Every hon. Member is entitled to have his say.

Dr. S. P. Mookerjee: The Minister is prompting him.

Dr. P. S. Deshmukh: I need no prompting. All that I wanted to say was that under the present circumstances with every State Government asking for a legislation of this nature and every State Government coming to the conclusion that a legislation of this nature was necessary, the Central Government could have had no option but to continue the operation of the Bill. I reiterate that it will depend upon our conduct and I will say—if the hon. Members are so touchy about groups being referred to—it depends upon the common citizens and their behaviour in the country whether such a legislation is necessary or not. I have not a shadow of doubt that this Government would not continue the operation of this Bill a day longer than it is necessary, and if it is not necessary, it will die a death of its own. The provisions may be there on the Statute-book, but if nobody acts so as to deserve preventive detention there will be no occasion for enforcing it. So it entirely depends upon how we behave, how we treat our country, how we desire to benefit from our independence, how we wish to preserve it that will decide whether this Bill will be in force or not.

My friend from Mysore said that the Bill should be circulated and people would vote against it. I think he is forgetting the history of very recent times. It is hardly six months since the elections are over and what was the situation during the elections? The Preventive Detention Law was in force and was in force in a more rigorous manner than this Bill is going to make it (*Interruptions*).

Shri H. N. Mukerjee: Oh, oh!

Dr. P. S. Deshmukh: In spite of that law being there, the country has returned the Congress to power and the present Government is installed in its position not as a result of any 'coup' or any conquest, but it is by the popular vote and popular choice, in spite of the existence of the Preventive Detention Act on the Statute-book, in spite of the fact that it was used much more liberally than it is likely to be used hereafter. If my friends on the other side will behave, it is likely to be used less than it was in the past.

Mr. Deputy-Speaker: Why does the hon. Member refer to that? It may be easily avoided. It may produce a bad effect. Instead of referring to hon. Members here, he may say "If every citizen behaves like that". Hon. Members here need not be referred to as if they are constituting the entire community in this country. They may belong to particular parties.

Dr. P. S. Deshmukh: I am sorry, Sir, if you do not like my reference to them.

Mr. Deputy-Speaker: This Bill is not intended against Members here. It is for the country outside.

Dr. P. S. Deshmukh: Sir, I feel I am fully justified in what I said, though I bow to your ruling and avoid any direct reference.

Mr. Deputy-Speaker: I shall read out what an hon. Member must do when he speaks. "A Member while speaking shall not reflect or make any personal charge against a Member.........."

Dr. P. S. Deshmukh: I have not made any personal reference whatever, Sir.

Mr. Deputy-Speaker: If the hon. Member says "If they behave" that means they are likely to misbehave.

Now another thing also. "No hon. Member shall use interruption or use his right of speech for obstructing the business of the House or use offensive expressions about the conduct.........".

Dr. P. S. Deshmukh: If you think I have offended, I am prepared to withdraw.

Mr. Deputy-Speaker: When once they are there, they are there by right. No other Member need refer to them in that way.

Dr. P. S. Deshmukh: So there is nothing in the argument advanced by my friend that if we are to circulate this Bill throughout the length and breadth of the country, the people will develop opposition to it and that the Government will not get the necessary majority. I wish to refer him to what has recently happened and that is a sufficient answer to the argument that he has advanced.

The Statement of Objects and Reasons has specified what the Bill purports to do. The first thing it purports to do is that under the existing Act which authorises District Magistrates etc., who are empowered in this behalf by the State Government, if they have to pass any order of preventive detention, they shall inform the State Government about it immediately. There is also a provision by which the Centre is going to keep in touch with this preventive detention which was not a fact before this Bill was brought in the House. If this Bill is passed, then in every case it would not be merely the State which will be acting or the District Magistrate who will be acting; there would be some sort of supervision and consideration given to the facts of each case by the Central Government. The second concession given by this Bill is to enable the Central Government effectively to discharge, where necessary, the functions under section 13 of the Act. There is a provision for a copy of the order of detention issued or approved by State Governments to be sent to the Central Government. Then the next concession which liberalises the original Act quite considerably is the provision that an Advisory Board may hear a detenue in person, not only if the Board desires to do so, but if there is an expression of desire by the prisoner to be heard.

Then so far as the new clause is concerned, which is clause 7—it lays down the maximum period of detention. Even here, I submit, the effect is to make the provisions less stringent and not to make them more stringent, that is, a limitation is placed upon the period of detention which did not exist in the original law. Therefore, I submit in every clause of this legislation there is a desire to liberalise the provisions and be less restrictive and less stringent about enforcing the provisions of the original Act. I, therefore, submit, that excepting for some changes which the Select Committee may probably like to make—actually I do not feel there is much change that would be made by the Select Committee because every one of these provisions is intended for the benefit of the detenus, if I may say so, rather than to make their position worse. This should be sufficient to convince anybody that there is need for a legislation like this and for its continuance. I think that would be generally accepted and I submit that the country has also upheld that a Bill of this nature is necessary. We have gained our freedom only recently and they should not quarrel with the Government which has not only given them the Constitution—because it was that Party who gave them such a generous and liberal Constitution—but has also secured our freedom and consolidated our position considerably. I think there may be some mistakes here and there, there may be inefficiency in certain departments and there may be certain faults from which the Government may be suffering. But by and large the Government of Pandit Nehru deserves the good wishes and support of every right-thinking person in the country because while consolidating the freedom and ruling this country it has imposed the least possible restraint on its citizens. The hon. Minister in proposing the motion has told us the number of the people who are under detention today. I think, for a country like this with its heterogeneous opinions and religions and castes and creeds, it is very creditable that the Government has been able to carry on with the least possible restraint on the liberties of the people. I think it stands out as a creditable achievement on the part of the Government in spite of the fact—I do not wish to refer to the Members of this House—that there is a group in this country which does not believe in peace and tranquility but which believes in dislocating peace and tranquillity and in creating disorder, anarchy and chaos.

There is an assurance that the provisions of the Bill are likely to be used as little as possible and only when circumstances demand it. And the circumstances are of all sorts: Not only does the Bill apply to persons who are indulging in blackmarketing and not to those who are trying to take advantage politically, it also applies to people who are dacoits, who are indulging in large-scale murders and loot. Does the House or the Opposition wish to suggest that there should be no preventive detention used against them? Do they defend the cases against which this Act has been used in Saurashtra and Rajasthan? I am sure they do not. It may be that they are somewhat apprehensive or suspicious that it would be used for

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political purposes. I feel certain that the present Government is not likely to do so and we should accept the assurance that has been given by the hon. Home Minister—I think he means it, it is a genuine assurance—that this Act or its continuance is not intended to suppress opinion. In fact, I would agree with the contention of the Government that there is far larger freedom of opinion and freedom to hold political views in this country than it exists in any other country. Under these circumstances, I do not think there is anything wrong in supporting this Bill because it will depend upon us, the ordinary citizens of the country, whether it should continue or not.

My hon. friend objected to the Bill and said that whereas till now the extended Act used to exist for a year or so, this time the extension demanded is for two years and he would like every session of this Parliament to repeat the performance. I think it will only give more publicity to our friends because every time they will be pursuing the same tactics and we will probably not spend our time so usefully if we were to do so. So I think this extension of two years which will give us ample opportunity to see whether the country wants such a legislation or not is a sufficient period and there should be no curtailment so far as that period is concerned. After all, as I have said, as to whether the provisions of the Bill are to be enforced or not will depend upon how the situation in the country exists.

12 NOON.

It is possible to argue that since there is provision in the Concurrent List every State Government may be left to have its own legislation. But I would respectfully suggest that it is better if this Parliament has some contact with what is going on in every State, and in order to maintain uniformity it is far better that there should be a statute of the Parliament than that it should be permissible for every State to have its own legislation in the matter. That way much of the complaints which my friends on the opposite side bring forward would probably be minimised because there would be some similarity of action in the cases of most of the Governments. If not anything else, at least this feature should have been appreciated by my friends and they should not condemn the provisions of the Bill wholesale. I think we ought to take our freedom a little more seriously and it is only by co-operating wherever it is reasonable for the Government to expect co-operation that we will be able to maintain peace in the country and achieve our aims through constructive efforts. So, I submit that taking into consideration the situation in the country, the size of the country and the way in which some of us behave, those Members who express a strong opposition to this Bill are not justified in condemning it wholesale and opposing it in the way they have done. The Fundamental Rights are the most liberal that we could have. This Bill is only a temporary measure; it is for the time being and till we find that the people who are mischievously inclined do not behave in that way that the statute-book will be burdened with this legislation.

I therefore move that the Bill be referred to a Select Committee.

Mr. Deputy-Speaker: I will now place the motion before the House. Those hon. Members who do not want to have their names included at this stage in the list of Members of the Select Committee may say so.

Dr. S. P. Mookerjee: I and Mr. N. C. Chatterjee had given our consent tentatively. I would request that our names may be dropped for the present.

Shri Sarangadhar Das: My name also may be dropped, Sir.

Mr. Deputy-Speaker: Then Mr. Damodara Menon's name also may be dropped. What about Mr. Jaipal Singh?

Shri Jaipal Singh: I am all right.

Mr. Deputy-Speaker: Good. I wish all Members are all right.

Dr. P. S. Deshmukh: May I suggest new names in their places, Sir?

Mr. Deputy-Speaker: No. There will be some vacancies for the Council of States and there will be some for this House also. All that is said by these hon. Members is that tentatively, until the other decision is known, they are not prepared to give their names. Therefore, let there be a possibility of some more coming in. I will now place the motion before the House. Motion moved:

> "That the Bill be referred to a Joint Committee of the Houses consisting of............members; 23 members from this House, namely:—
>
> Shri M. Ananthasayanam Ayyangar, Shri Tekur Subrahmanyam, Shri Balvantray Gopaljee Mehta, Shri Narendra P. Nathwani, Shri Ganesh Sadashiv Altekar, Shri Hari Vinayak Pataskar, Shri B. Shiva Rao, Shri

A. M. Thomas, Pandit Algu Rai Shastri, Pandit Balkrishna Sharma, Shri Tribhuan Narayan Singh, Shri Feroze Gandhi, Shri Awadheshwar Prasad Sinha, Shri Lalit Narayan Mishra, Pandit Lakshmi Kanta Maitra, Shri Syed Ahmed, Shri Basanta Kumar Das, Shri H. C. Heda, Shri Dev Kanta Borooah, Shri Jaipal Singh, Shri Jaswant Raj, Dr. Kailas Nath Katju and the Mover and............members from the Council;

that this House recommends to the Council that the Council do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Council to the Joint Committee;

that in order to constitute a sitting of the Joint Committee the quorum shall be............;

that the Joint Committee shall make a report to this House by...............;".

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Will you specify the number also?

Mr. Deputy-Speaker: We have 23 Members now. We do not know how many more will be taken. When I put the motion finally to the House the number of Members from the Council of States will be given.

Dr. S. P. Mookerjee: Is there no limit to the number?

Mr. Deputy-Speaker: After all, the hon. Member read some portions from May's Parliamentary Practice to show that the whole House can go into committee. So, there is no limit to the number. Normally, the proportion is the one between the strengths of both Houses. It may be 2: 1 or something like that. However, every hon. Member can be on this Committee, and it is possible the other House has not got all the Members to make up the proportion. So, the motion is before the House. Before I put it finally, I shall give the number that will constitute the quorum and also the time by which the Committee will have to report to the House.

Now, Sardar Hukam Singh may move his motion, subject to my decision as regards the latter portion of the motion.

Sardar Hukam Singh: I beg to move:

"That the Bill be referred to a Select Committee consisting of (I shall mention the names just now) with instructions to report by the 25th July, 1952 after considering all amendments even to those sections of the Act of 1950 which are not sought to be amended by the present Bill."

So far as the names are concerned, I shall have the same Members whom Dr. Deshmukh has proposed, excepting those who wish to drop out if the latter portion of my motion is not accepted. Of course, as the mover of this motion I shall be included.

Mr. Deputy-Speaker: He is creating difficulties where there are none. As the mover, he will find a place automatically.

Sardar Hukam Singh: As regards the latter portion, arguments have been already advanced about the limitations attached to the discussion on this Bill. Two of our eminent Members in this House have already referred to certain precedents and also quoted May's Parliamentary Practice. Ultimately, you, Sir, observed that there is no bar if the sponsor of the Bill himself brings in certain amendments along with a motion that certain clauses or sections of the original Act be extended for a further period.

Mr. Deputy-Speaker: Is there any authority to that effect? I have not said my final word yet.

Sardar Hukam Singh: According to Dr. Mookerjee there is authority, though you might differ from him.

Mr. Deputy-Speaker: I have not given my decision one way or the other.

Sardar Hukam Singh: I only want to say that you may rule that there is no bar. My point is that if this Bill is in the nature of an Expiring Laws Extension Bill, then it has been argued that no amendments could be brought to the parent Act and in support of that May's Parliamenary Practice was quoted. Some Members have pointed out that this is not such a Bill and therefore the Member bringing it forward is at liberty to put in other provisions also amending some clauses in the parent Act. There is a ruling by the Speaker in the Ajmer-Merwara Act that amendments to other sections of the parent Act cannot be brought in here, although the scope of discussion is much wider and the entire operation of the Act can be discussed. My submission is that that ruling was based on the English procedure which in fact covered the case of an Expiring Laws Extension Bill. Therefore, if this law is not merely an Expiring Laws Extension Bill but something more, then that ruling of the Speaker

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does not apply to it and there is no bar to our taking up other amendments as well. That ruling was given on a different hypothesis.

So far as the instructions to the Select Committee are concerned, this Parliament is a Sovereign body and it is competent to give any instructions it likes. This Bill has a very wide scope. It is of a controversial nature. It affects the liberty of so many people. Our friends said that the section affected is only 1 per cent. It may be 1 per cent. or one person. But in enacting it, we have to be very cautious when we impose such restrictions. It cannot be said that the ruling of the Speaker debars us from bringing forward and discussing amendments to any sections that are not sought to be amended by this Bill. We can go into them, unless the Speaker or you should decide otherwise. Instructions are very necessary, because otherwise there might be a misapprehension in the minds of the Committee Members that perhaps their scope is restricted. Unless instructions are given, they would not go into those matters. That is my fear. We should therefore, specify that they are at liberty to consider other amendments as well.

Mr. Deputy-Speaker: Is there any precedent for this? The hon. Member is assuming that the Speaker is going to say, or at any rate the decision on the point of order will be, that other amendments may be taken up. Hypothetically, let us assume that the decision is that no amendments to sections other than those sought to be modified by the sponsor himself are permissible, then is there any provision allowing, or permitting, or enabling Parliament to give instructions to the Committee to consider other matters? It is a committee of the House. Let us assume that it reports that the whole of the Bill and every section of it may be amended, then although the Speaker may directly rule that that is not within the scope of the Bill, indirectly the Parliament will get into the whole of the Act. The Select Committee may decide like that, let us say, by a majority. Therefore, whatever may be the constitutional aspect, I want to know whether there is any authority to the effect that merely because a Bill is introduced, it immediately enlarges the scope and Parliament is enabled to go into matters which are not germane to the Bill, and do as it likes.

Sardar Hukam Singh: I have no specific authority to quote. I only said that this Parliament is competent enough to do that.

Mr. Deputy-Speaker: It will only lead to this situation. We will assume that in a Bill one of the sections of an original Act is sought to be amended. Is it open to the House to say that all the other Sections which are not touched by the Bill must also be brought into and we shall go into the whole question? Is it open to the Parliament to do that?

Dr. S. P. Mookerjee: There is one provision in our rules to which I may draw your attention. That is rule 97. It refers to procedure after presentation of report of a Select Committee. There it is said:

> "After the presentation of the final report of a Select Committee on a Bill, the Member in charge may move.........
>
> (b) that the Bill as reported by the Select Committee be recommitted either—
>
> (iii) with instructions to the Select Committee to make some particular or an additional provision in the Bill."

So, certainly, when the House has the power to recommit a Bill to Select Committee asking it to make any other additions in the Bill as may be necessary, it must have the power to give certain instructions to the Committee when the Bill is first sent to the Select Committee. Apparently there is a lacuna in the rules.

Dr. P. S. Deshmukh: It must be interpreted as falling within the scope of the Bill.

Mr. Deputy-Speaker: But should it not be understood that these instructions can refer to only those matters which are already referred to in the Bill and the Select Committee must again go into it for purposes of clarification.

Shri N. C. Chatterjee: May I invite your attention to "Instructions" appearing in Chapter XX "Proceedings of Parliament in Passing Public Bills". It reads:

> "On the order of the day being read for the House to be put into committee on a bill, the opportunity occurs of moving an Instruction to the committee. Instructions are of two kinds, permissive and mandatory.
>
> *Permissive Instructions*: The object of a permissive instruction,

> which is the more ordinary form, is to confer on the committee authority to do something which, without instruction, they would have no power to do divide a bill into two bills, to consolidate two bills into one or to extend the scope of a bill."

Therefore, the House can by suitable instruction give power to the committee to do something which it would ordinarily not have the power to do.

Mr. Deputy-Speaker: Is it not merely a rule of procedure?

Shri N. C. Chatterjee: I am sorry, perhaps, I did not make myself clear. You can confer by instruction power on the committee to do something which without that instruction they have no power to do. One of the powers which you can confer is to extend the scope of the Bill.

Dr. S. P. Mookerjee: Sir, may I refer you to the Commons' Standing Orders (Public Business), Rule 40 which reads:

> "It shall be an instruction to all committees to which Bills may be committed, that they have power to make such amendments therein as they shall think fit, provided they be relevant to the subject matter of the bill; but that if any such amendments shall not be within the title of the bill, they do amend the title accordingly, and do report the same specially to the House."

Instead of giving "special instructions" in individual cases, large powers are given by these Standing Orders to the Committee.

Mr. Deputy-Speaker: It will be only procedural. The other extract read by Mr. Chatterjee refers to the scope also. I have got one doubt as to whether the scope of a Bill can be enlarged by Parliament, without the consent of the sponsor. I assume that the authorities quoted so far are for this proposition that Parliament can give consent or instructions to the committee to enlarge the scope where necessary. But can it be done over the head of the sponsor of the Bill?

Dr. S. P. Mookerjee: If the sponsor of the Bill is a Minister the majority of the House will not let him down and he too will have to accept the verdict of the House.

Dr. Katju: I wish respectfully to point out that, in spite of the fact that I am a lawyer accustomed to quoting precedents, it is very embarrassing to the House to have this May's Parliamentary Practice thrown at us, because the conditions there are different. We are not accustomed to them. We do not know the details. My hon. friend reads one passage here and another friend reads another passage from there. Our friend, philospher and guide are the "Rules of Business". If anybody wants, these may be amended, altered, added to. The relevant rule here says that "an amendment shall be within the scope of the Bill." The Bill before the House contains five clauses. There is a Preventive Detention Act today in operation. This is an amending Bill and it proposes that in that standing Act which is in force today certain amendments may be made. Now, instead of saying that the Act will come into operation from the 31st October, you can say that it will come into operation today. Another amendment is that in the main Bill where you find 31st October (there are still three months ahead) you substitute 31st December 1954. It is perfectly in order for any hon. Member to suggest that instead of 1954, make it 1964, or make it 1952. That is within the scope of the Bill. With all respect to my hon. friends who have quoted May's Parliamentary Practice. I cannot understand how the Select Committee can go outside the main rule 100, unless the House by an express direction gives power to the Select Committee.........

Dr. S. P. Mookerjee: That is what exactly we are proposing......

Dr. Katju: Unless you change the rule, you cannot do it. The rule is specific on that point.

Mr. Deputy-Speaker: Evidently, the hon. Minister has not understood me correctly. What I wanted to ascertain was this. Let us assume that the amendments, are beyond the scope of the Bill. Then the question arises whether it is open to Parliament to give power to the Select Committee, to go into matters, beyond the scope of the Bill. Could it be done? For that purpose I wanted authority. That authority was quoted from May's Parliamentary Practice—the only book which we can normally refer to.

Then a further difficulty arises in my mind: whether without the consent of the sponsor of the Bill, and over his head, even the Parliament can allow interference with other matters which are not germane to the Bill, or are beyond the scope of the Bill.

Dr. P. S. Deshmukh: My submission is that the motion moved by Sardar Hukam Singh is out of order and will create a very bad precedent. Supposing there is an amendment to one word in the Indian Penal Code, would it be possible for this House, sovereign as it

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may be, to reopen the whole Indian Penal Code, because certain amendments to it have been suggested. So, this motion should be ruled out of order.

Mr. Deputy-Speaker: It is not that Parliament will abuse its power. The only question is, because it is a sovereign body notwithstanding the fact that the scope of the Bill would not permit it, if Parliament by a majority feels that some other provision should also be interfered with, whether it can be done or not. It is not as if the whole of the Penal Code should be interfered with. I do not think the analogy applies.

I only wanted to be satisfied, if the hon. Member in charge of the Bill is not willing to have the scope of the Bill enlarged, whether there is authority. As a matter of fact, the hon. Minister is not willing to do it. Now the discussion may proceed.

Shri Damodara Menon: The hon. minister has not replied.

Shri Sinhasan Singh (Gorakhpur Distt.—South): On a point of order......

Shri Pocker Saheb (Malappuram): On a point of order.......

Mr. Deputy-Speaker: There cannot be two points of order simultaneously.

Shri Pocker Saheb: On a point of order.........

Mr. Deputy-Speaker: That is also a point of order.

Shri Sinhasan Singh: We are discussing a motion made by Dr. Deshmukh to refer the Bill to a Select Committee. And in that discussion the different points have come out whether the Select Committee can go into the matter and interfere with the other provisions.

Mr. Deputy-Speaker: We are not discussing that alone.

Shri Sinhasan Singh: The other motion is by Sardar Hukam Singh. My submission is that both the motions are out of order. They cannot be moved under our own rules. We are unnecessarily travelling from India to England when we have our own rules in this respect.

Mr. Deputy-Speaker: What is the procedure here?

Shri Sinhasan Singh: Our procedure is contained in rule 76 which provides that only the Member in charge of a Bill can move for reference to Select Committee.........

Mr. Deputy-Speaker: The hon. Member has evidently not gone through the other provisions in the rules.

Shri Sinhasan Singh: The rule reads:

> "No motion that a Bill be taken into consideration or be passed shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to a Select Committee of the House or a Joint Committee of the Houses with the concurrence of the Council or be circulated for the purpose of eliciting opinion thereon shall be made by any member other than the member in charge except by way of amendment to a motion made by the member in charge."

Mr. Deputy-Speaker: The hon. Member forgets that those two motions, one moved for circulation and the other for reference to Select Committee, are by way of amendment to the motion moved by the hon. Minister. There is no point of order.

What is the other point of order? Is the House to go on with points of order and not the substance?

Shri Pocker Saheb: I want to clarify the position. May's Parliamentary Practice or the practice in the British Parliament can be referred to only if our own rules are not clear. In this matter our rules are crystal clear. Rule 100 says "The following conditions shall govern the admissibility of amendments" and sub-rule (i) says:

> "An amendment *shall be* within the scope of the Bill and relevant to the subject matter of the clause to which it relates."

Therefore, if this House itself has no jurisdiction to consider amendments which are outside the scope of the Bill, certainly this House has no jurisdiction to give any instruction to the Select Committee about matters on which it has no jurisdiction at all.

Mr. Deputy-Speaker: Hon. Members know that the Speaker can always suspend the Rules. I can suspend the Rules. I am not bound by them. As a matter of fact, these Rules are only for the purpose of doing justice. The question is, if one section is touched, can we go into the whole of it. It may contain 500 and odd sections like the Penal Code. That is what is agitating me. It is not a matter of mere form. We can get over the rules. The rules or standing orders can be suspended. There is a specific rule. I can do so. There is another provision which says the

Chair can always invent and declare rules from time to time with respect to those matters which are likely to impede the progress of any particular matter—not that we are impotent. The main point is whether Parliament, if it is so inclined, can enlarge the scope and whether that is desirable or proper, particularly as the hon. Minister is not willing to do so. The hon. Member may now proceed.

Pandit Thakur Das Bhargava *rose*—

Mr. Deputy-Speaker: Once again on a point of order?

Pandit Thakur Das Bhargava (Gurgaon): On this very point which the House is considering. You were pleased to consider and put it to the House whether without the consent of the mover of the Bill this authority can be given by the House. This was the question we were addressing ourselves to. I beg to submit that when once a Bill is introduced or a motion is made it is not the property of the mover alone, it is the property of the whole House. The House, if it is so inclined, can certainly make any instructions also. But then there is another power with the mover of the Bill which he can exercise at pleasure. After all it is he who will have to make the final motion that the Bill be passed. Suppose he refuses to make that motion. What happens? No other person can make that motion that the Bill be passed. Suppose it comes back from the Select Committee. Suppose the House gives the instruction and it comes back from the Select Committee in an amended way which is not according to the will or the pleasure of the mover of the Bill. The mover of the Bill may not make the motion and the whole House may be stultified.

The real position is quite different. The real question is whether we will be justified in extending the scope of this Bill at this stage. How is it that it is claimed on behalf of certain persons that the scope of the Bill will be enlarged? What is there in this Bill specially? It is like the usual Bills.

Mr. Deputy-Speaker: We shall go into the merits later. Hon. Members have got much to say on this Bill.

Pandit Thakur Das Bhargava: I shall have my say then.

Mr. Deputy-Speaker: The question is whether without the consent of the Minister or the mover of the Bill it is open legally for the Parliament to enlarge the scope of the Bill. There is the further difficulty as has been pointed out, that he may not make the motion at all in the Third Reading and no other person except some other Minister on delegated authority can move it. That is the trouble. Anyhow, there has been sufficient discussion on this point also. The hon. Member may proceed with his motion. I shall formally place it before the House. There is no harm.

Sardar Hukam Singh: Now that this part of the question has been discussed and various points of order have been raised and disposed of I need not labour further on this point. I come to the merits of my motion.

It has been said by the hon. Minister that in countries like U.K. and U.S.A. people are law-abiding, that they take it as their first duty to abide by the law that is passed there. And he thought perhaps our people are more law-breakers rather, and they do not abide by the laws that are passed. But I think just the other way. If the number of offences committed and the breeches made are compared I am sure he would change his opinion. It is not a fact that our people are not law-abiding. We are more law-abiding, in fact too much. We submit to the law of the land. There is always a percentage and there are men who under certain impulses or certain other considerations do break the law. That percentage will always remain. Our country is unique no doubt in having this legislation. Where other countries have such legislation in case of emergencies we have the emergency requirements as well and even in ordinary times we are going to have this law. Therefore we have this objection that it is peculiar to our country alone. The point that there the people are more law abiding cannot be admitted. Then my hon. friend, Mr. Deshmukh said that certainly it is intended to safeguard the liberties of 99 per cent. of the people. He meant to say that it was only 1 per cent. who were affected by this Bill (*Interruption*). It may be much less and therefore it was necessary that for safeguarding the liberties of such a majority we do require this Act on the Statute Book. I would submit it is no credit for 99 per cent. of the population if they have to safeguard their liberties by this measure against the one per cent. If that 99 per cent. or 99·9 per cent. as my hon. friend said.........

An Hon. Member: There is the Indian Penal Code.

Sardar Hukam Singh: If the Indian Penal Code can deal with these persons, then where is the need for this Bill. If as he claims there is such a large majority of people who really want to be safeguarded then our laws

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of the land would be sufficient and there will be no danger. As one of the Members here pointed out, trust begets trust. The hon. Minister said in a previous speech that with advanced age perhaps trust gets into such persons very slowly, but even then we have to develop that tendency. The words that he used were: Confidence grows slowly in aged persons. At the same time he claimed that he was not so aged. I am sure he would rather try to place some confidence in the masses and if he places that confidence and develops it in spite of his age—he says he feels young—then certainly the people will also respond and there will be no need for such a legislation. The Constituent Assembly considered this question very thoroughly and they came to the conclusion that such provisions were necessary and they provided for that. There is no harm. Of course, they did the right thing in providing for such an emergency. It does not become obligatory because there is a provision in the Constitution and because it is considered that some opportunity might arise, we must necessarily have that legislation for all times. It does not create an obligation on this Parliament that we should have such a legislation with which we are armed under the Constitution at ordinary times as well. Then again it has been said that the number now under detention is very small and certain figures were given. Of course, the number is very small. Then I am sure our Minister and the Government can deal with them in the ordinary way. If the number is very small, there is no need then to have a special legislation of a repressive nature like the one that we are now considering. It was said that there is no harm; it is a harmless measure: it does not affect many people. Quite right. It does not affect many people. It does affect a very few. This is one extreme. A case has been made out that there are certain persons who are engaged in subversive activities. I have already said that we can deal with them in the ordinary way. Cases can always be made of certain persons on the one extremity. We have also to think of the people on the other end also and see how the law is likely to be abused. This is also a question that we have to keep in mind: Is it only those persons that we are dealing with it? The hon. Minister referred to this question and I have been told: let the powers lie with the hon. Home Minister. I say this is all right. It was perhaps an analogy from the English law because in England it is only the Home Secretary who scrutinises each case. Then the hon. Minister can say England is a small country. Perhaps the cases are very few. In a vast country like India it would not be possible for him to go into all the cases. I agree. We have to provide certain safeguards so that these powers given to the district magistrates and the sub-divisional magistrates may not be abused. I assure him that if he goes into those cases he will feel convinced that some safeguards must be provided. In the first instance, as I have said, there is no necessity for this measure. If the Government must have it then we must provide certain safeguards so that innocent people are not involved. It would be the duty of the Home Minister or even the Home Secretaries in the States who would deal with them to see that the district magistrates or other subordinate officers specially auhorized are given the authority to satisfy themselves that those are the persons whose activities are prejudicial to the security of the State and knowing as we do how these district magistrates behave in their districts, we should be careful in giving them such powers. The District Magistrate or the Presidency Magistrate thinks himself to be the lord of all the surveys. He cannot brook any opposition and I do not know why objection was taken when I said that they are vindictive in certain circumstances. I can give illustrations and where they have been vindictive, innocent persons have been arrested. If I am permitted, I can quote one or two instances. There was a student in LL.B.. in Delhi and after he had appeared in three papers and only two remained, he was arrested on a warrant from Ferozepore after 8 months of the issue of the warrant and he could not appear in that examination. You can very well find out whether there was any apprehension or danger to the security of the State and when the student had not gone underground.........

An Hon. Member: Not a refugee?

Sardar Hukam Singh: He was not a refugee. He was studying in the college here continuously. It was learnt that 8 months ago a warrant had been issued against him and that was pending execution and he was arrested at the time of the examination. I say that he was arrested after he had appeared in 3 papers in the examination and the poor chap had to appear in two papers more. If the warrants had waited for 8 months could it not wait for another 2 days? There would not have been any danger to the security of the State in that instance.

There is another case. There was another boy, Satbir Singh and his warrants were issued in 1950 and they have been kept pending up to 1952. Several representations were made to the State Government of Punjab and they replied that they had to refer the case to the Deputy Commissioner and I assure the hon. Minister that the Deputy Commissioner said that unless the boy came before him, he was not prepared to cancel the warrants. All other warrants had been issued. All these warrants had been issued against people, against whom there were allegations that their conduct was a danger to the security of the State or that they were engaged in subversive activities, by the Deputy Commissioner. This warrant he could not cancel. Only the other day I read in the vernacular papers that the warrants had been cancelled only after the district magistrate had been transferred from the district and not before.

Shri Pataskar (Jalgaon): May I bring to the notice of the hon. Member that the district magistrate has to report forthwith to the State Government:

Sardar Hukam Singh: Yes; to the State Government. The Advisory Board and the High Court only say that it is the district magistrate that is to be satisfied and not any other body. Even the High Courts are of no help in these petitions because the excuse is given that under the law it is the district magistrate who is to be satisfied that the activities of the person are prejudicial and it is not the courts that have to be satisfied. They cannot go into these facts.

Dr. P. S. Deshmukh: Is it the suggestion of the hon. Member that all these persons were available for arrest all along?

Sardar Hukam Singh: Yes; one was a student in the Delhi university. He was continuously attending the classes.

I can give many other instances. I related the grounds and perhaps you may remember, last time when this Bill came up for consideration, you stopped me from mentioning all the grounds. Perhaps you may recollect this. I said that these are the main grounds: Then, you put me the question,—I remember very definitely, —"Were these all the grounds?" I stated, there were other grounds as well, but the chief ground was that he was persistent in asking the Members to go out of the Congress party. This was the fault of these two students as well. A resolution was passed by the Akali dal that justice had not been done and that these M.L.As. should go out of the Congress party. There were two sections in the Congress party itself and the section that was in power considered that if these people went out of the Congress, they would tumble down and therefore all these precautions were taken so that the party in power may not collapse. On that account warrants for detention were issued and they were kept pending for such a long time. Several persons have been arrested. I need not go into the further details. I shall come back to my point. When there is such a scope for abuse, we have to guard against any restriction of the liberties of the people, so that innocent persons may not be harassed unnecessarily.

Now, there are two questions. One is arrest; the other is detention. Even if we concede that there are cases when a person should be arrested and should not be allowed to commit the crime that he intends to commit, that we should not ask the Government to wait till the crime is actually committed, there is a case for discrimination. When a person is arrested, he should have the opportunity to have the usual procedure gone through. His enquiry should be extensive; it should be established that really what the Government or the officer has in his possession warrants action being taken against that person. Even if he is kept in detention, the Advisory Board is there. They should have more extensive powers to go into the question, as a judicial body.

I do not say that the Advisory Board should be substituted by regular courts. Let there be Advisory Boards. But, at least there should be an opportunity for the cross-examination of witnesses. The detenu must be there to cross-examine them; accompanied by his pleader. He should be allowed to produce his own evidence if he likes. Perhaps he may be able to controvert the whole thing that is alleged against him. Why should he not have that opportunity? You have got the man in your custody. He has been arrested. There is no danger of his acting in a manner prejudicial to the security of the State or our relations with foreign countries. He cannot do any further mischief. Then at least, he is entitled to demand that the case against him should be established and that he should not be harassed unnecessarily, vindictively or out of any ulterior motive by the magistrate

[Sardar Hukam Singh]

Of course, the magistrate also gets information from other people.

Then, even in issuing notices, in detaining persons, there are cases where —I can quote cases in three districts —warrants were issued on identical grounds. Copies were typed out or perhaps they were cyclostyled; nobody applied his mind as to whether this particular person had committed anything or not. They were cyclostyled copies and every one was given that, as is the case here in Delhi, that in the meeting that was held in Mr. Deshpande's case, three persons are alleged to have presided over the same meeting (*some Hon. Members*: Five) five persons are alleged to have presided over the same meeting at the same time. These are cases that certainly do require careful consideration. I therefore beg to submit that the powers that are vested with the Advisory Boards should be extended. They should have all the information that the Government or the officer has in his possession, that is deemed to have satisfied him to proceed like that. All the information must be placed before the Advisory Board. Of course, the Advisory Board is authorised to call for any further information; but it is not all the information that the Government or the officer possesses that is placed before the Advisory Board. The Advisory Board may themselves feel that there might be very material evidence that the Government does not propose, in the public interests, to disclose and that there is danger of its being mis-used. But, the ordinary procedure of allowing the person to produce his evidence, to cross-examine witnesses and to be present himself with his pleader should be allowed. It is conceded that he might be arrested when there is a fear that he might act in a manner prejudicial to the State: but he should have these opportunities.

Now that the principle has been conceded by the hon. Home Minister as well that it be referred to the Select Committee, my only submission is that the Select Committee should have this instruction of the sovereign body. We should not say, this is not the analogy to put forward that Parliament might widen the scope. Even if one section of the Penal Code is sought to be amended, the whole Penal Code may be amended by Parliament if Parliament likes to behave in that manner. Let us depend upon that. It is not correct to say that this Bill is one to restrict the powers of Parliament. If it is a sovereign body, it can do anything. We can trust that it will behave in a responsible manner.

Mr. Deputy-Speaker: I shall place the motion before the House. Before doing so, I may say it is not now being voted upon. The motion is only being placed before the House. There is another motion for reference to a Joint Committee. No rules have been framed in that respect. If the House passes that also, formally, I will make that motion as incidental to the other motion. In other respects there is the motion of Dr. P. S. Deshmukh for reference to a Joint Committee. The following will be added to that motion regarding rules of procedure to be followed in this Joint Committee:

> "That in other respects the rules of procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make."

At a Joint sitting of both the Houses, as hon. Members may be aware, it is the Speaker of the House of the People that presides. A Joint Committee is merely a miniature of that. Therefore, the Speaker is given the power to make such modifications as he may deem proper in the procedure. I shall now place the motion moved by Mr. Hukam Singh as an amendment to the motion moved by the hon. Minister.

Mr. Deputy-Speaker: Motion moved:

> "That the Bill be referred to a Select Committee consisting of Shri M. A. Ayyangar, Shri T. Subrahmanyam, Shri Balwantray Gopaljee Mehta, Shri N. P. Nathwani, Shri Ganesh Sadashiv Altekar, Shri H. V. Pataskar, Shri B. Shiva Rao, Shri A. M. Thomas, Shri Algurai Shastri, Pandit Balakrishna Sharma, Shri T. N. Singh, Shri Feroze Gandhi, Shri A. P. Sinha, Shri L. N. Mishra, Pandit L. K. Maitra, Shri Syed Ahmed, Shri B. K. Das, Shri H. C. Heda, Shri D. K. Borooah, Dr. S. P. Mookherjee, Shri N. C. Chatterjee, Shri Jai Pal Singh, Shri Jaswant Raj, Shri Sarangdhar Das, Shri Damodara Menon, Dr. K. N. Katju, and the Mover, with instructions to report by the 25th July, 1952, after considering all amendments even to those sections of the Act of 1950 which are not sought to be amended by the present Bill of 1952."

These are the amendments before the House to the Motion moved. Does the hon. Minister want to say anything?

Dr. Katju: Have you held that the amendments are in order?

Mr. Deputy-Speaker: No.

Dr. Katju: Then, do you propose to hold them in order? Because my position is this. It is open to any hon. Member to vote against the consideration of the Bill on any ground he likes. One ground may be that it does not go far enough. The instructions to the Select Committee that it should go farther than the Bill into the very teeth of Rule No. 100 and I respectfully submit that so long as the Rules of Business stand, that is not permissible. You were pleased to point out that the Speaker can suspend the Rules of Business. I speak subject to correction, but that matter is dealt with by Rule No. 280 where it is said:

> "Any Member may with the consent of the Speaker move that any Rule may be suspended in its application to a particular motion before the House, and if the Motion is carried, the rule in question shall be suspended for the time being."

That is the only thing. I do not know whether that motion will be applicable to this Rule No. 100. Till that is done, Rule No. 100 stands, and we had an instance only four days back in a Bill—I do not know what exactly its name was; I think it was the Bill for amendment of the Criminal Procedure Code—which gave rise to a great discussion about aerial bombardment and naval bombardment in which there were dozens of amendments which were all ruled out by the Speaker on the ground that they went beyond the scope of the Bill, the scope of the Bill merely being that for the purpose of dispersal of an unlawful assembly, the Magistrate may be entitled to call for not only the assistance of the Military, but also the assistance of other armed personnel. There were many amendments moved that the President should declare an emergency and so on, the District Magistrate should be consulted etc., and the Speaker ruled out all those amendments. Now, I respectfully suggest that if that Bill had gone to the Select Committee, the Select Committee would have been bound to take exactly the same procedure which the hon. Speaker took on the floor of the House. It is not permissible to go outside the scope of the bill. This certainly binds the House, and binds the Select Committee still more strongly. Therefore, this amendment which has just been moved that a Select Committee appointed with express instructions to go beyond the scope of the Bill is out of order.

Shri Raghabachari: It was not meant to extend the operations of existing Act. It was only an amendment.

Mr. Deputy-Speaker: The Secretary will now read a message.

MESSAGE FROM THE COUNCIL OF STATES

Secretary: Sir, I have to report the following message received from the Secretary of the Council of States:

> "In accordance with the provisions of sub-rule (5) of rule 162 of the Rules of Procedure and Conduct of Business in the Council of States, I am directed to return herewith the Appropriation (No. 2) Bill, 1952, which was passed by the House of the People at its sitting held on the 4th July, 1952, and transmitted to the Council of States for its recommendations, and to state that the Council has no recommendations to make to the House of the People in regard to the said Bill."

The House then adjourned till Half Past Three of the Clock.

The House re-assembled after lunch at Half Past Three of the Clock.

[MR. SPEAKER *in the Chair.*]

PREVENTIVE DETENTION (SECOND AMENDMENT) BILL—*Contd.*

Mr. Speaker: The House will now proceed with the further consideration of the Preventive Detention Bill.

Shri Gadgil: Sir, in the morning there was so much confusion created at any rate in my mind on account of the walk-outs and walk-ins, the number of amendments moved for referring the Bill to a Select Committee or a Joint Select Committee, or a Select Committee to report beyond the scope of the Bill according to the meaning of the rules as I understand, that I thought it would be better if it were possible for me to put myself in the mental climate of an ordinary unsophisticated commonsense man and then approach this question which is undoubtedly of vital importance today. I therefore formulated four questions for my own satisfaction, on the answers to which the whole thing, in my opinion, depends.

The first question that I posed myself was whether this piece of legislation is consistent with our Constitution, or is correct and proper constitutionally.

The second question was whether there was the need for such a legislation.

[Shri Gadgil]

The third question was, assuming that there was the need for such a legislation, whether the powers given in this particular Bill are appropriate, adequate or excessive.

The fourth and last question was whether there are any provisions regarding the safeguarding against the abuse of the powers conferred.

Now although in your ruling you have desired the discussion to be limited to a summary appraisal of what has happened since the last Act was passed, by a subsequent ruling given by the Deputy-Speaker, the discussion and consideration of principles underlying the expiring Act have been allowed to be discussed and even held to be relevant. I, therefore, want to enter into not a wide discussion of the same, but a brief reference to the Constitutional position. Appeals have been made in the name of liberty and democratic principles with which we are all familiar. In fact Congressmen have all along been fighting for certain principles, and I hope every one of them feels rather pained when he is faced with the necessity of a legislation of this character. But many times, we have to balance between what to do and what not to do, and come to a conclusion which is consistent with the basic interests of the country. It has been pointed out that in other democratic countries, there is no Preventive Detention Act, and if it was there it was only during wartime and when there was internal rebellion. I want to point out to this hon. House that in 1939 in Eire, a law was passed for preventive detention, when there was neither war nor any internal rebellion; but the riots and disorders were of such a scale that the Parliament there felt the necessity for a measure similar to the one which we have in our Statute book and so an Act was passed. It is not therefore an axiomatic truth that ordinarily in times of peace, there should be no such legislation. I visualized the circumstances in which this country became free as one who has to see that the transfer was gradual in one sense and secondly that the newly-won freedom should take deep root in the soil: it was necessary in those circumstances to have a preventive detention provision in the Constitution. It is true no doubt that the Constitution states general rules not for a fleeting period, not for the fugitive necessities or exigencies of the time, but for generations to come. At the same time we must feel that the Constitution is a road to progress and not a gateway which is closed against all eventualities. Therefore in those circumstances, the principle of preventive detention was incorporated in our constitution, and not only that, the provision was openly made in the Constitution that Parliament is empowered to make laws consistent with those principles which are embedded in the clause called the preventive detention clause. What the Parliament will do will be essential for the passing-over, but it cannot be a part and parcel of the Constitution. If there is anything wrong done by this Parliament, as the Englishman has said:

> "Corrective of the action of Parliament as a human and fallible institution is not a legal corrective and lies not with the judiciary, but with the Parliament itself acting upon a fresh wave of patriotism, a higher sense of duty, a wider range of experience or a broader perspective in the region of applied justice."

Therefore, if this Parliament is doing anything wrong in passing this particular Bill, it is open for the successive Parliament or even for the matter of that if the public opinion changes, even this Parliament composed as it is, may well find it desirable to erase this law, or cancel some of its provisions. All that I say is that if under the Constitution the power is given to the Parliament, then it will be perfectly open to the Government to make use of that power and the justification for bringing in a legislation will depend upon the consideration of the question that if such a Bill is not brought what will be the consequences. In my humble opinion it would have been an act of 'unwisdom' on the part of Government, if they had not brought this Bill. So far as the Constitutional issue is concerned, I do not want to say anything more than what I have said. But the cry that law must proceed on inquiry, law must hear before it condemns, law must give judgment after trial is there. But we have a situation in which all the normal things are of no use or inadequate, and hence the justification for resorting to the power which the Constitution has given to have a law of this character passed by the Parliament.

The question of vital importance now is this. Has the need for this piece of legislation been established? The expiring Act was passed in the month of January 1950, and if my memory was correct, when the first preventive detention Act was passed by this Parliament, my hon. friend Dr. S. P. Mookerjee was in the Cabinet and I know how very anxious he was that this particular Bill should be passed as quickly as possible.

Dr. S. P. Mookerjee: The hon. Member is manufacturing something. It was a Cabinet decision. I was not very anxious.

Shri Gadgil: There is no need to be disturbed over this. Actually it was more for West Bengal that the House sat on a Sunday and passed the Bill. Now if my hon. friend knows Bengal as nobody knows, I am simply surprised that he is against this Bill so much that from A to Z it seems his opposition will range. At the very introduction, he opposed it, in spite of the best established traditions of this House that there should be no opposition at the introduction stage. I know he has a right to do it, but he has certainly acted against the convention. Now he knows Bengal very much. Only today Homa, delightful and normally truthful, wrote in his paper that the demonstrators did not loot a single shop of *rasgoola* or tea shop or restaurant; all they looted were *biri* and cigarette shops. If they were members of a hunger marchers' combination, one would normally expect them to loot not *biri* and *pan* shops or picture shops but something else. Let me confess that I am not a photographer myself. In the pictures I found the students, most of them, were looking very healthy. Apparently, therefore, the marchers are not actuated by a real grievance, that they are going about with empty stomachs. Nothing of that kind. From what I have read and seen from the pictures leads me and will lead every reasonable man to one conclusion, that there is something far deeper behind these marches.

Pandit A. R. Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): You are right.

Shri Gadgil: Now it is for the Bengal Government and the Bengal Members here to consider whether in spite of the partial fulfilment of the promise by the Central Government in the matter of food supply to Calcutta or Greater Calcutta if such things go on, is it not a menace to the stability of the State, is it not a menace to the security of the State, is it not a menace to the peace and tranquillity of the community? And if you are willing to tolerate it and explain away every firing or every resistance by the forces of law and order by putting them to ridicule, as we used to do six years ago, I think you are not serving the community in the way in which every responsible citizen is expected to do.

Now, let us go province by province. In Saurashtra, to which a reference was made by the hon. the Home Minister, a few months ago the situation of law and order was very serious. It was impossible to arrest every man and put him before a court for a proper trial, the Government knowing that it would be very difficult to collect evidence against ex-Rulers and Jagirdars. The Government of Saurashtra had to have recourse to this measure with the result that within three months not only law and order had been restored, but Bhupet had to run away from Indian territory. Now, take PEPSU. From what we read in the papers the situation is deteriorating so much. I read in the papers—I do not know how far it is true—that in two or three tehsils police stations have been withdrawn and villagers are marching from village to village wherever they are in a majority removing and mishandling the Biswedar and where the Biswedars are in power the reverse is happening. Is that a desirable state of affairs? Now, go step by step even in this particular respect of law and order. In my State of Bombay, every effort has been made by the State Government and the Central Government to give relief in the matter of food as much as possible and whatever is inadequate, according to our humble view, we are trying our best to persuade both the State Government and the Government at the Centre and yet everywhere there are marches—hunger marches, food marches—and now they are trying their game by disobeying taxation laws in general. Do you consider what will be the result of an atmosphere of this kind? If there is a general contempt or even indifference to the laws of the land, it will not be in the interest of this country, its future and its progress. A good horticulturist when he plants a sapling, surrounds it with a fence so that it may grow properly. He does not like branches to come out at very low level till the stem is of a particular diameter. No risk is taken. Why? Does he want to circumscribe the liberty of the sapling? Nothing of that kind. But it is in the interest of the sapling that it should be of a certain height, then branch off full of leaves, flowers and fruits. Our freedom is just like a sapling. It has just taken root and the test is, if I may say so, if the country is in danger, if every citizen feels that it is a personal danger, then I say the sapling has taken root. If today, it should not happen, but unfortunately happens that some country invades India, I want to know how many of the Oppositionist parties would brush aside all personal and party considerations and would stand.........

Some Hon. Members: All.

Shri Gadgil: I make a definite statement. If the Communists are real Communists, then there is no nation for them. If they are real Communists, then it is only the international world. Let me make no mistake, let me make the position abundantly clear. That is the test. If everyone of us, if our border is attacked, lays down his life, offers whatever he has, then he is a citizen entitled to every privilege. (*Interruption*). I am not Dr. Katju, a soft man, to give you way. If every citizen considers this to be his country and wants to enjoy all the fruits, then equally it is his duty that when the country is attacked he should offer his life whatever may be his ideology. That is the test.

Now, take, as I said, province by province in the political and economic sphere. As the hon. the Home Minister has stated, this Bill is not meant against the Communists. In fact, it is meant against no party.

Pandit A. R. Shastri: Quite so.

Shri Gadgil: If any person does an act or intends to do an act which is calculated to prejudice the conduct of foreign affairs or defence or security or maintenance of peace or supply of essential articles, he must be dealt with. I repeat what I once said, though it was not appreciated all round: A weak Government and a weak husband deserve to be kicked out. My grievance is that not only there is a need, but the powers taken are not adequate. But I am agreeable to the provisions as they are. I do not want to go further. The point I was making was that in the economic sphere very recently, though I regret individually, Government has entered on a policy of cautious decontrol. Now a few months ago the Chief Minister of Madras, who was also Home Minister here, gave an instance in which the merchants mixed cow-dung with jaggery...... (*Interruption*). I accept your evidence. According to him, the merchants have become godfearing. So far so good. But the report shows that from Vishakhapatnam the supply of *gur* instead of going to Madras is either waylaid or managed in such a manner that it goes to different areas with the result that prices are going up. If this situation aggravates then the Government must be equipped with adequate power to deal with such persons whether they are regular blackmarketeers or hoarders or speculators. Every anti-social activity must be properly curbed. It has become now a fashion in the last five or six months to refer to China and what China did in order to put down corruption. Well, the Bill is not thinking of giving them whips—there is no provision for whipping the blackmarketeer or the anti-social-*walla*, no hanging, nothing of that kind. Simply he may be detained and according to classification—blackmarketeers are bound to be rich people—they will be put in 'A' class. No harm done, nothing of the kind. And yet, the opposition is so intense that even the introduction of this Bill has been opposed. I want to ask like a plain man of commonsense, as an unsophisticated man: If you are all anxious that all these anti-social activities must be put an end to as quickly as possible (*Interruption*). I particularly appeal to my friend, Dr. Syama Prasad Mookerjee that his approach should not be an approach of opposition, consistent and persistent,—to borrow those old-style adjectives—but he must oppose in a constructive manner. He must, if he finds the provisions are inadequate to tackle the blackmarketeers, make suggestions and I have no doubt the hon. Minister will accept them. If any particular clause is really such as would go right against our fundamental conceptions of liberty, I have not the slightest doubt that he will also be responsive. But to oppose it from the introduction stage right to the third reading of the Bill, followed by a walk-out, is hardly a method which the parliamentary game lays down. I shall also appeal to my Communist friends: Since you have made your constitutional bow to this all sovereign Parliament, you must observe the rules. I give you a bit of my experience. After all, this is the forum that you want to use and that forum is only available if you keep right with the Speaker, and if you do not keep right with the Speaker you will never have this forum—you will merely draw your allowances and go back and find your forum elsewhere. I would therefore ask the Communist friends that they must observe the rules of the game. They must follow the parliamentary procedure and in the end they will find that this gives them a greater dividend than mere walk-outs and not very orderly interruptions. The point is there is.........

An Hon. Member: Is this all relevant to the Bill?

Mr. Speaker: Order, order. Let him proceed. I think he is not irrelevant altogether. If I felt that he was irrelevant, then I should have stopped him myself, but it is no use the hon. Members taking the power in their hands and trying to reply by their interferences. That is not proper. I need not go into the question as to how it is relevant.

Shri Gadgil: What I wanted to make out was that more than need has been made out by the hon. Home Minister. I would not like to refer to what many Members of the Opposition Parties have said in the course of the election campaign because election time is a time when men are off their normal mental balance. But I know of a leader of the Peasants and Workers' Party who said, not in connection with the election campaign but when the election was months ahead, in one of the towns in Maharashtra that if he and his Party come into power the first thing that they will do will be to behead all the Congressmen. I am glad that time has not come yet and perhaps on this side of his grave it will never come. Then again the same leader, more with an eye to brilliance than to balance, said: "The Congress High Command and the Government are a gang of Bhupats."

Shri Punnoose (Alleppey): Can we ask the name of that leader?

Mr. Speaker: Order, order.

Shri Gadgil: Worse things have been said but as I said they may say anything because there is no ban put by Government on thought and expression. Freedom of thought is complete and there is no intention to curb it—and if the Government does anything of that kind I shall humbly oppose it, because the channels of thought and expression must be free so that there may be new conquests of truth and knowledge. In fact, freedom of speech is to the life of the community what the heart is to the body. Therefore, freedom of thought and expression should always be there. No prosecution to my knowledge has been initiated against anybody for any speech made so far. Therefore the need has been established for this measure: Only acts or intended acts have been contemplated, not what they think or what they preach. Their philosophy is not in the dock—their action is the subject-matter of this piece of legislation.

The third question is: Are the provisions in respect of this need excessive? I have gone through the various clauses and I feel that if anything the provisions are made more simple, more to the advantage of the detenu. Here I would like to refer to a memorandum I have received from the All-India Civil Liberties Council. This Council did very good work while the Constitution was in the making. In this memorandum they have repeated their objection and said that there should be no provision for preventive detention in the Constitution itself. Then it says that there should be no legislation, but if there is a clear need for it then certain things ought to be done. The memorandum says: The three essentials for the proper functioning of an investigating body are that full information concerning the circumstances in which detention has been ordered be made available, that the detenu be allowed to appear in person or by legal representation, that he is enabled to call evidence and cross-examine the witnesses. So far as giving of information is concerned, the Advisory Board are entitled to call for all the information that the Government has in its possession. As regards audience this is conceded as you will find in the Bill. As regards the third point, namely evidence and cross-examination, obviously this is not possible because it is not a trial in the full sense of the word and if recording of evidence and cross-examination is allowed then the main object of keeping a certain portion of the facts confidential and not making them out public in the interest of the public is frustrated. Because much of the work of cross-examination will be done by lawyers and lawyers and politicians have no great reputation for keeping secrets. Therefore the provision as regards this is perfectly right. But at least two of the three demands made by the Civil Liberties Council have been met. They also say that last time they waited upon Shri Rajagopalachari and wanted that this power should be confined to the Home Ministers of the States requiring them to look personally into such individual cases.

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You will find that in clause 4 the procedure laid down is that the District Magistrate or whosoever is initially responsible for the arrest has to report immediately, and the State Government has to approve of it within fifteen days. That means that the matter goes not only before the Home Minister but before the State Cabinet. Not only that. A further step has been taken, namely, that all such cases will have to be reported as early as possible to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government have a bearing on the necessity of the order. Here then are provisions which will safeguard against the abuse of the power. Therefore, there is nothing in this Bill which is against any party or any individual, and any one who obeys the law has nothing to fear from it. You cannot allow either an individual or a group of men to endanger the peace and tranquillity

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of the country. You cannot allow a group of merchants to corner a particular commodity which is vital and essential for the life of the community. You cannot allow traders to speculate in such a manner that they may completely throw the economic order of this country out of gear. Gradually, we are building up order and laying the foundations of our freedom. We are trying to build up political habits which are appropriate to a democratic community. All things which go contrary to this must be checked in the initial stage itself; otherwise, they will assume large proportions and the results will be disastrous to the community.

In the end I would think this occasion to be one for holding a test of responsibility, of anxiety to help the progress of the country, of regard for good order and the freedom of this land. It is not a political question on which our votes should be on party lines. I am not speaking on these lines. There may be someone who has a conscientious objection to the very principle of preventive detention, without considering whether it is justified on grounds of political expediency or not. Such a person may abstain from voting, or he may vote against, but all of us here are practical men who are anxious to see certain programmes of economic betterment put through. It is for us to consider whether or not during the next five or ten years we should make ample and speedy progress by having this Bill or make no progress without having it. A prudent peasant takes away the unnecessary thorns and surrounding growth from his field, divides it into small plots, waters the plots and then plants the seedlings. Similarly, Bharat is a big garden. All those little undesirable growths which prejudice the growth of real democracy must be weeded out and in this effort all of us must cooperate. Some of us may not like this Bill. In fact, I also do not like preventive detention to be in the Constitution or anywhere else. But as I said in the beginning, you cannot ask a Vaishnava suddenly to take meat. He will quiver. But if he is advised by the Doctor that he must take meat and there is absolutely no alternative, then he may take it. In the same way, apart from all these democratic—I would not like to say claptrap—honest beliefs, we should set aside our party differences and think that our progress is of the first importance. This Bill should be considered in that atmosphere and the debate should not be followed up by 'walk-ins' and 'walk-outs'. Let us meet argument by argument and fact by fact. Let us try to persuade each other. After all, I do not believe, like the cynical English parliamentarian who said that "speeches change views but not votes", that we may not convince each other. But let us do it not by what we did in the morning but what we may do in the afternoon.

Shri H. N. Mukerjee: I wish that we were spared the pompous frivolities which the hon. Member who has just sat down has chosen to inflict on the House, because we have met together this afternoon to consider a measure of the most fundamental importance to the interests of our country and the future development of our country. This morning, certain things happened—certain very unsavoury things—which we shall not forget for many a long day, but those unsavoury things emanated from something which was the most unsavoury of all, namely, that stinking piece of legislation which the hon. the Home Minister has introduced into this House, the Preventive Detention (Second Amendment) Bill. It stinks from every pore of it and I shall tell this House how, if we are going to live up to the pretensions which we so often make, we ought to do something about shedding the habits of clinging to certain kinds of legislation which are represented by the measure under discussion.

I shall not weary the House by repeating that preventive detention is something which is alien to all democratic concepts, because that is a point which has been made over and over again, but I do feel it necessary to refer to it because much has been made of the proposition that preventive detention figures as such in our Constitution and that therefore it is a sacrosanct proposition and that at any time you wish you can get up in Parliament and propose a Preventive Detention Bill. I say with all respect to the Constitution and to the makers of it that nothing is so sacrosanct as all that, and if we in India are going to say that we are proud of the singularity of our country; if we in India are going to say that even after five years of so-called independence the people of India are not yet attached enough to the administration and have to be brought to book by measures like the Preventive Detention Act, then surely that is by no means a desirable state of affairs. There is in our Constitution something which is unique by itself. That is a point on which we all agree. No democratic Constitution allows a provision like preventive detention. But why should we be proud of this uniqueness?

Why should we say over and over again that the Constitution sanctions it and therefore let there be an end to all discussion about its reasonableness. If the Constitution at a particular time, for particular reasons which we need not go into, made certain provisions, that is no reason why we should in season and out of season invoke that particular provision of the Constitution when that particular provision goes against the grain of all decent political life. I say this not merely because as Marxists we know that as long as the capitalist system continues, that system may from time to time have to make certain concessions to the democratic upheaval of the common people but it always reserves to itself the right to retain real power in the hands of the vested interests. That is why in all bourgeois constitutions, which I am sure the Prime Minister has made a very serious study of, fundamental rights are mentioned in the general clauses and then they are negated in the other clauses which follow.

Now, we find that in our Constitution in Article 21 there is a provision in fairly broad terms regarding individual liberty. But in Article 22, which is the stock-in-trade of the Treasury Benches and the party in power today, there is sanction for preventive detention. Now, I shall not merely quote Marx to say that this is the way of all capitalist constitutions however democratic seemingly they might appear to be. I shall quote the judgment of one of the Judges of the Supreme Court of India, Mr. Justice Vivian Bose, who in the case of Ram Singh V. the State of Delhi made these observations:

> "I fully agree that the Fundamental Rights conferred by the Constitution are not absolute. They are limited. In some cases the limitations are imposed by the Constitution itself. In others Parliament has been given the power to impose further restrictions and in doing so to confer authority on the executive to carry its purpose into effect. But in every case it is the rights which are fundamental, not the limitations. And it is the duty of this court and all courts in the land to guard and defend these rights jealously. It is our duty and privilege to see that rights which were intended to be fundamental are kept fundamental and to see that neither Parliament nor the executive exceed the bounds within which they are confined by the Constitution."

Here, therefore, is a learned judge who says that it is the right which are fundamental, not the limitations. But the hon. the Home Minister makes so much of the limitations and points out that in the Constitution there are references to certain provisions which limit the fundamental rights granted and these provisions are so important that they have got to be invoked today. Now I submit that this is an extremely dangerous proposition.

We know that judges in this country have generally pronounced themselves in regard to preventive detention with reference to cases which came up before them in the regular course of things in a manner which redounds to the credit of our judiciary. I could give so many quotations from their judgments. But it is pertinent to remember that when cases of preventive detention have been brought up before High Courts, or before the Supreme Court of India, the general tendency on the part of most of our judges has been to say that preventive detention is on principle objectionable and those particular instances which were placed before them of the application by the bureaucracy of preventive detention were cases which were extremely badly managed and in most cases the judges have expressed themselves in favour of the liberty of the subject. It is only because of certain very technical difficulties that perhaps in all cases they could not order the release of the detenus who appeared before them with *habeas corpus* applications.

I know that justice is not a cloistered virtue, and our judges may well stand criticism in Parliament and the country. Perhaps, I might say that not all our judges do come up to the standard which we expect of them. Perhaps, some of our judges feel more or less in the words of Chancellor Bacon who once advised one of the judges in England to be like one of the twelve lions under Solomon's throne. Bacon said they must be lions, but yet lions under the throne. Now at that time Coke protested against it, for he did not like judges being lions under the throne. Now, it is my pleasure and privilege to say that most of our judges have tried to behave not as lions under the throne of Treasury Benches, but as lions who try to interpret the law of this country in an independent fashion. That is why they pronounce themselves in almost every case in a manner which suggests that the application of the Preventive Detention law has proceeded in this country in a wooden, unimaginative and absolutely frivolous and damaging fashion, as far as citizens' liberty is concerned.

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Now in regard to this point regarding the necessity of the Preventive Detention Act, it is good to recall its history. Now, we had the Constitution which came into operation in January 1950. In February 1950 the Preventive Detention Act was passed and you know the history of its passage. You presided, I am sure, over the deliberations which ended in a dramatic fashion, or pathetic fashion, I should say. You would surely remember how the late Sardar Patel said that he spent two sleepless nights over this measure. He spent two sleepless nights for two very specific reasons. One was that after all immediately after the promulgation of the Constitution he was going to propose in Parliament a piece of legislation which on any computation was pernicious. That was one reason for his passing sleepless nights. Another reason was, as he did not hesitate to say very bluntly, that in Calcutta at that time there were nearly 500 detenus whose cases had come up before the Calcutta High Court. The observations of the learned Judges of the Calcutta High Court in the case of those five hundred detenus or near about that number, were already giving an indication of their mind and everybody could anticipate that on Monday when the Bench was going to re-assemble the *habeas corpus* applications would be granted and the petitioners would be set at liberty. Everybody knew it. That was why by a record process of expedition in the history of legislation, perhaps, in any country in the world, the House proceeded to pass the Preventive Detention Act. But at that time Sardar Patel could point out that in Calcutta there was an explosive situation. Now this argument of explosive situation in Calcutta which is repeated so many times by the Home Minister rankles me, that I want to lay it at rest by giving a suitable answer, but I am afraid I have not got the time for it.

At any rate in 1950. Sardar Patel said in Calcutta there was going to be an explosive situation, and Government could not allow those 500 detenus to be set at liberty. That was exactly the proposition which he made and hurriedly the Preventive Detention Act was passed. But in spite of the supposed existence. which I deny, of an emergent situation in Calcutta at that time. Sardar Patel made no secret of his opinion that this was an emergent piece of legislation which was not going to be continued. He gave it out very clearly that this was a kind of legislation which could only be justified by reference to current events. If only the emergency continued this kind of legislation could have any real validity. That was the proposition which he made and that was why the life of the Act was to last till the first day of April 1951. In February 1951 it got an extension of another year by another amending Act which simply stated that for the figures "1951" the figures "1952" be substituted. Then again in March 1952 there was another amending Bill which was passed into an Act. On that occasion, as far as I remember, Dr. Mookerjee made some sort of a statement to that effect, that the Home Minister Shri Rajagopalachari who was in charge of the measure...

Dr. S. P. Mookerjee: It was Dr. Katju himself.

Shri H. N. Mukerjee: I am sorry. Dr. Katju himself, who is here before us, made a statement more or less essentially to the effect that he was asking for an extension of the Act for only six months or so and that the new Parliament which would be meeting would review the situation and if the emergency was found to be a real, live fact of social history in India of the present day, then, of course, the whole thing would be considered and it might or might not extend the Act.

I challenge Dr. Katju to prove before us with facts and figures and not with ejaculations as to what exactly is the emergency which he is contemplating today. Yesterday the hon. the Home Minister began as Dr. Jekyll and today he ended as Mr. Hyde. That was the impression I got. Yesterday the way he began suggested to everybody that all was well in the country. the communist detenus are so few in number, because there is no communist movement which endangers the security of the country or the maintenance of law and order, or whatever else you have got in your head when you try to pass the Preventive Detention Act.

Now that is the picture he tried to give yesterday. Today he changed his mind and poured all his venom against communism and communists, advertising his ignorance of the philosophy and the practice of communism, in the process. The result was we are left where we were. We are told that an emergency exists, but we are given no facts whatever by any spokesmen of the Congress party in this House or anywhere else to prove that a real emergency exists, an emergency which justifies invocation of these very special powers granted under the Constitution in regard to preventive detention.

I do not want to go into the due process clause in the United States and the protection that British courts give to the subject. I need not talk to you about what Lord Atkin said in the famous case of Liversidge *versus* Anderson. Even in times of war the laws of Britain are not silent. They are noble words from which you could draw a lesson. When in England they take such an attitude why do we, in the month of July in the year of grace 1952—due to some inner inspiration, or perhaps inspiration from somewhere else—why do we come to feel that there is such a danger facing the country that we must have a preventive detention law. I ask this question in all seriousness, and I am happy that the hon. the Prime Minister is here.

The other day when discussing the Criminal Procedure Code Amendment Bill, which was passed into law, on that occasion also we found the same thing. We found that the Government wanted additional provision in regard to the employment of armed forces for the suppression of civil disturbances. The Government, of course, later gave an assurance that the air force will not be allowed to bomb people from the air and the navy would not be allowed to bombard the country from the sea. But at any rate the Government came forward with that sort of proposition which is fantastic. Today, in order to quell civil disturbances in this country, we want from time to time to requisition the services not only of the army but also of the navy and the air force—and Heaven knows what other forces we might have in contemplation.

What is the point of all this? Are we going to have a real police State? We talk of the welfare State. Representatives of the Ministry often talk in terms of having in this country what is called a welfare State for the common people. But why are you getting all the wicked paraphernalia of a police State? And that is exactly what the Preventive Detention Act is. What are the reasons that you make out for it?

Today my learned friend Mr. Gadgil referred to Calcutta and the burning of trams in Calcutta. I think my hon. friend Dr. Katju also said something about the burning of trams and that sort of thing. I wish I could give you those Calcutta papers which give photographs of the lathi-charging, the tear-gassing and the shooting which has taken place there. I wish I could show you also the reports by Congress newspapers which show how—I find Dr. Katju nodding in disagreement. *Jugantar* is a Calcutta daily which is a supporter of the Congress party in this country. The Special Staff Reporter of this paper gave clear instances of these things, which Dr. Katju can have translated by whatever staff he has got in this place. If he does that he will find out how the reporter of a newspaper which is anti-Communist, which misses no opportunity of slandering us, is giving a picture of the Calcutta situation, how the patience of the people is tested in such a fashion that they are coming out in demonstrations on the streets. The point is made: the Calcutta people demonstrate, the Hyderabad people demonstrate, the Madras people demonstrate, they are a wicked lot, they have got to be taught a lesson. Why should this kind of attitude be advertised in this House? Have we forgotten our past altogether? Does not Dr. Katju know how and why people come down from a tramcar or a bus and how and why a refractory tram-driver is sometimes molested by the crowd for his lack of response to the popular feeling? Can I go out in the streets of Delhi and stop a Delhi Transport bus merely by shouting myself hoarse? Could I make ten Members of Parliament and other passengers in a bus to come down from it and stop all transport arrangements? We could not do so unless there was in the atmosphere of Delhi an objective situation which made the people feel that they were at one with the demonstrators in the streets and they wanted to impress upon the government of the day what their demands were. Unless that happened we can never get public co-operation. Congress Members must have forgotten...(*Interruption*).

Mr. Speaker: No interruptions now.

Shri H. N. Mukerjee: Congress Members must have forgotten the days when the Congress used to lead struggles in its own way. Otherwise this kind of phenomenon would never be seen. It is only on the basis of real, genuine popular support that a demonstration can be successful. You may have a stray instance of excesses being committed. Where excesses are not committed, I do not know. Everywhere in the world, whenever there is an upheaval something like that happens. As I said once before in this House, to pluck a rose you cannot always prevent a prick. Excesses would happen. Why do you look only at those excesses? Why do you not look a little further? Why do you not see that behind those excesses there is a real, genuine popular feeling that the Government of this country is going absolutely against the interests of the people of this country. On this point I would like to throw out a challenge. My friend Dr. Deshmukh speaking this morning had the temerity to say that

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the Congress party has won the elections with an election manifesto of its own and therefore the Congress party had a mandate, so to speak,—that was the substance of what he said, it may not have been in the same form—of the people to bring up the Preventive Detention Bill. I challenge Dr. Panjabrao Deshmukh or any Congress Member of this House, not excluding the hon. the Prime Minister, to resign his seat in whichever constituency he or she represents on the issue of preventive detention and fight an election. It is a very serious thing.

Shri Raghunath Singh (Banaras Distt.—Central): I am ready.

Mr. Speaker: Order, order.

Shri H. N. Mukerjee: I have an experience of elections. I know what happens. When our Congress worthies in those provinces with which I am familiar were carrying on their election campaign they could not face the people and say: this is our programme, this is what we have done in the past, and this is what we propose to do in the future. They could not do so. Now they are coming forward with this pernicious legislation. Let them put it before the country. They are not ready even today to accept the simple proposition to circulate this Bill so as to elicit the opinion of the people on this measure. They can only justify their stand if they can say: look here, the country is in very grave danger, we are passing through an emergent period, any day we might be attacked, inside the country there is such an explosive situation, civil war might ensue at any point of time. Is that the proposition which is being made? Are we as Members of Parliament asked to believe that in this country there is such an explosive situation? We are not. Then why this extremely frivolous and hazardous proposition which has been placed before the country? I do not understand it. And I ask the Members to ask themselves this very simple question: why must we have the Preventive Detention Act, why must we prolong the existence of an Act about which we must be shame-faced if we are going to have any democratic conscience? But they do not ask themselves this question. They are forbidden to ask themselves this question because of—Heaven knows what, or the devil knows what, I should say. I should not go into those reasons which perhaps are propelling them to this kind of activity. Why threaten us with a police State when circumstances certainly do not warrant the assumption that there is any kind of emergency in operation?

Now apart from the fundamental viciousness of this Bill and its absolute irrelevance when there is no visible emergency either now or in the immediately discernible future—apart from the fundamental viciousness of the Bill,—let us see how the Preventive Detention Act has worked. I have already referred to what the learned Judges of the High Courts and the Supreme Court in India have said in regard to the working of this Act. Now in one case, in the case of Atma Ram, the Chief Justice of the Bombay High Court made this observation about the grounds of detention which were placed before them. He said "In all the matters which have come before us we have been distressed to find how vague and unsatisfactory the grounds are which the detaining authority furnishes to the detenu. We are compelled to say that in almost every case we have felt that the grounds could have been ampler and fuller without any detriment to public interest."

This is how Bureaucracies operate. If I give you a selection of the grounds which are supplied to detenus it would take hours and hours of the time of this Parliament and I do not propose to do so. I want to mention a very few typical cases. I am sure you are very familiar with the history of the movement for freedom and you know the great days of 1930 when in March-April of that year the Chittagong Armoury was raided by the revolutionaries of Bengal. It is an incident which is graven for ever in the memory of every patriot in this country. Those Bengal terrorists challenged the British and showed that we had shed our reputed cowardice, that we are really and truly ready to shed our blood for the freedom of our country. They were the salt of our Indian earth. We have forgotten them now but at one time they rendered tremendous service to the cause of freedom. One of those with whom Dr. Katju was perhaps familiar in Calcutta was Ganesh Ghosh. He was detained first under the Bengal Criminal Law Amendment Act which was declared *ultra vires* by the judiciary and then under the Preventive Detention Act and among the charges preferred against him was this: You had participated in the raid on the Chittagong Armoury in 1930. I am not manufacturing the statement. I will refer the hon. Minister to his files. He might see it there. I have seen it with my own eyes. That was the accusation made against him. There was another person Niranjan Sen who was associated with the Machua Bazar Conspiracy case in 1926 or 1927. Some time ago in the charges against him there was this statement: "You were one of the principal organizers of the Machua Bazar Bomb Conspiracy. That is one of the reasons why we shall keep you in detention."

There was the case of Abdur Razaak Khan who has spent about 15 years in jail during the British regime and he was told that he was organizing the peasantry of Bengal in 1936 and 1937, and therefore in 1948 he was put under detention and he was only let out in 1952.

There were other cases too. In the case of a very well known labour leader, S. S. Yusuf in Cawnpore one of the charges against him was: "You are associated with the Communist International." Now, Sir, Mr. Nehru knows very much better than most of his colleagues that the Communist International was dissolved in 1943 and in the year 1948 or even later than that he was told that because of his association with the Comintern he was supposed to be very dangerous to the security of this country. There are many other instances which I could offer you. For example, there was the case of a university lecturer in Allahabad University, Dr. Asharam and it was said against him that he had organized a strike and a demonstration in the Allahabad University by the students on the 29th January 1950. Actually the date of the strike deserves notice because it was a Sunday and the University was closed on that day. This is the kind of charge which is preferred against people. I will come nearer home to this Parliament and I find there also outrageous instances of the application of the Preventive Detention law by the bureaucrats in power. A political worker Santosh Chatterjee was detained in 1950 and one of the three grounds of detention against him was that he had been inciting ladies not to join the British Commonwealth. I suppose he addressed some women's meetings and called upon everybody including the women present to agitate against our being members of the British Commonwealth and he was put in the jail, among other reasons, for inciting ladies not to join the British Commonwealth. I find so many other cases. In the case of Shri Tushar Chatterjee, who is a Member of Parliament one of the charges against him was: "On the 11th December 1948 you attended a meeting at 249, Bow Bazar Street, Calcutta where resolutions were passed expressing full confidence in Mrinal Kanti Basu, President of the Bengal Trade Union Congress and supporting the strikes at Liptons Limited and other firms." This is the kind of grounds which are brought against our people who are stowed away from their liberty, from their lives, from their homes and their spheres of activity merely because somebody somewhere blunders in this most egregious fashion. There was a case in 1951 of an illiterate, colliery worker Sumali Bhuiyan in Bihar. He was detained on the ground that he was a militant communist. When the case came up to the Supreme Court, Mr. Justice Chandrasekhara Ayyar remarked that there was nothing wrong in being militant. In fact he said a lawyer who argued his case briskly can easily be called militant. These are some and there are so many other cases which I could quote but I am afraid I have not got the time and I should not impinge on the time of the House too much.

I think I have been able to show that the working of the Preventive Detention Act by whoever has been in charge in different parts of India has been of such a character that we ought to be ashamed of it. I happened to be in the Presidency Jail in Calcutta in 1949, and there as well as inside the Alipore Jail Calcutta and in the Dum Dum Jail near Calcutta, there were shootings by the armed sentries under the orders of the Superintendent or the Commissioner of Police, I do not know who, and as a result four people lost their lives and many were very badly injured. I would like you to imagine the life inside the jails with which so many of you are familiar. Inside the jail the balance of forces is always against those who are detained. You possibly cannot fight with books, and with whatever you can wrench from the furniture in the room where you are staying. You cannot fight with those weapons against a military force when they are requisitioned against you. The balance of forces inside a jail is always against those who are imprisoned and in spite of that these shootings had happened in West Bengal. They happened in Madras, Hyderabad and other places. In the case of Hyderabad we find that there are instances when people were taken out from jail and shot. There are two cases, at any rate, which I can mention, but there are many more cases which I have not got with me now. Raja Rao and Reddi were taken away from the Central Jail in Hyderabad, taken out somewhere and then they were shot without ceremony. This kind of thing happened in the Salem Jail some years ago. It is more or less common knowledge. These incidents are almost reminiscent of what the Americans are doing in an unspeakable fashion in the Koje prison.

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I do not press this comparison seriously, but we must be on our guard and we must not be behaving in a fashion which would besmirch us with the same ugly, foul ink as the Americans are getting from the public opinion all over the world today because of their misdeeds in Koje prison and the way in which they were behaving. Why has our Preventive Detention Act been operated in this fashion? I have been told that in Hyderabad life was impossible. Life had to be organized somehow or other and civilized standards must be restored. We on this side of the House have said before and I repeat the challenge that we had put forward on that occasion. I repeat—if there is a real impartial investigation made into the circumstances of Hyderabad, then we shall find out which side was guilty of violence and which side was not. The abstract question of violence has been raised in this House this morning and you, Sir, told me at that time that if I get an opportunity of speaking I shall also be permitted to answer that charge. I have been asked: as a Communist, do I abjure violence? I would say this is a most negative, an abstract and unrealistic way of posing a question. Nobody, Communist or other wants violence for violence's sake but the Communists have a political philosophy, they have an ideology which affects the understanding of the development of social processes. They know it is a fact of history—and Pandit Nehru knows very well, as well as anybody else—that when changes happen, vested interests always try to prevent that change and fight till the last ditch to prevent the change materialising. When common people who are suppressed for generations, for thousands of years, rise to throw off their shackles, when they try to rise in revolution in order to build a new society close to their hearts' desire, what happens? Those who want to exploit them, those who have fattened on the sweat and blood of the common people, they fight till the last ditch in order to perpetuate their authority. When they do so, do you expect the common people to take it all lying down? Do you expect us to practice *Ahimsa*? Did Mahatma Gandhi himself advise the common people under those circumstances to practice *ahimsa*? Did he not say. "*Ahimsa* is all right but I do not preach cowardice". When people rise in their anger, in their righteous anger, against society of a particular order, and when those people who are benefiting because of the existence and continuation of that society, when they try to prevent, to drown in blood the upsurge of the common people, will they say, we do not practise violence; we will turn the other cheek. We do not say so. I do not think Pandit Nehru says so. I do not think any Member of the Congress party says that. I do not think that any man with his head over his shoulders, with some gray matter in his cranium will say anything of that sort. That is why I say, it is not any question of abjuring violence or not abjuring violence. Who cares for violence for violence's sake? The greatest philosophers of communism, the leaders of the communist movement have been the most humane of men judged by all reasonable and decent standards. That is because they have made a study of the social processes. They have found out the laws of social dynamics and they have called upon the people to organise in order that only a kind of society which is in conformity with all civilised standards may be established in this world.

I find the Congress party speaks a different language today. [I am reminded of what Bernard Shaw once said. He said; "There are two tragedies in life: one is to get one's heart's desire and the other is not to get it." The Congress party has perhaps got its heart's desire: power and pomp in New Delhi. That is the tragedy of our patriotism; that is the curse of our society, a tragedy from which we have got to fight our way out.] That is a duty to which I think even Congressmen and Congress patriots may be called. That is a duty of which they can be reminded when they discuss a piece of legislation like the Preventive Detention Bill. I would submit therefore that the Preventive Detention Act, in its operation so far, has produced such disastrous and deleterious effects that we should not any longer extend its operation, particularly because we do not see any tenable reason, any possible reason that can stand the test of logic, or the test of any argumentation. There is no reason for its continuation and therefore we should say that a 'halt' should be called to the kind of proceeding which the Congress Ministry is taking.

The Preventive Detention Bill reminds me of what was said about the Bourbons. The Congress party learns nothing, forgets nothing. At one time possibly, they developed an animus against communism. They learn nothing from the past and they learn nothing from the present. They do not learn anything from what is happening in the world outside today. They do not see the writing on the wall. People are on the move. The upsurge of the common people all over the world is a patent fact. Today, the phenomenon met with in Calcutta is, people are on the march in the streets. This is not a phenomenon to be dismissed as an airy nothing, as having been manufactured by a few professional agitators. It has its roots deep in the blood of the common people. There is no getting away from it. That is a fact which we have got to take notice of. Why do we not do so? A Government which forgets its responsibility to the people, a Government which is not responsible to what people are thinking, hoping, pining, yearning for, that Government has no right to exist.

Dr. Katju treated us this morning to a homily on law and order. Then he remembered Pandit Nehru's abjuration of the term 'law and order' and used the terms peace and tranquillity. He developed a new philosophy of his own. He said, "look here, you can break laws when you are fighting against the foreign Government; when you are fighting against the Government of your own countrymen, you cannot break the laws". That was the new philosophy which he propounded with some gusto. I should say, what Gandhiji, whose mantle has fallen on our Prime Minister in apostolic succession, once said quoting Thoreau, an American citizen, who was living in America in freedom: If a just man is sent to prison, then, the place of all just men is also a prison. That is what he said. I am not defending what Thoreau said or what Gandhiji said. Thoreau was an American citizen in an America which was free in those days. I do not know if the America of the present day is really free. He said that if a just man is sent to prison for unjust reasons, others should also break the law and go to prison. Why cannot we have a legitimate right, a birthright as we have always called it, of going against a particular piece of legislation if it is so pernicious, if the social conscience revolts against it in such a strident fashion that you cannot possibly accept it. I do not accept the proposition of Dr. Katju that it is only a country which is struggling for its national freedom that can break laws with some moral justification. I do not say that laws have to be broken with impunity. You cannot do it. You cannot get the support of the people. You must have the sanction of popular approval behind what you do and what you say. I just cannot go about and ask people to break every law that comes at hand. If the patience of the people is tried so sorely that they cannot stand the strain any longer, if you go on imposing the kind of police apparatus which you are building step by step, and brick by brick, you do not know what will happen. Do not try the patience of our people in that fashion. The dividing line between hunger and anger is so very thin. You have to learn the lessons of history. Do not forget that the people today want certain things. That have certain illusions about your leadership. They have still some expectations from the Ministry which rules the country today. Do not play with their desires, their aspirations, and their ambitions. Do not goad them into fury because, after all, a patient man can be infuriated, and the fury of a patient man is something for which you may have to pay a very heavy price. Do not let us go in for this kind of thing. Do not let us go in for Preventive Detention Acts, oppressive, repressive and suppressive acts of this description. They are absolutely alien to all standards of civilised administration. Except on occasions of real emergency, the special powers under the Constitution should not be assumed. I shall not therefore go into further details.

I shall warn the Congress Government not to go on in this fashion. There is no reason why they should feel so panicky. Why does it feel so diffident about itself? There is no reason for that. If they only pursue policies which are beneficent to our people, then surely this panic will vanish, this diffidence will evaporate and they can do something for the common people. If they go on at this rate, I am sure, they will be dragging our country towards a tragedy. If you dig a pit, you are going ultimately to fall into it. I beseech the Government not to dig a pit in this fashion because ultimately this will lead to the ruination of our country. Because, if you goad and provoke our people, their passions will be roused in such a fashion that they would respond in a manner which the Government of the day would certainly not like. Therefore I submit that from all points of view, whether we consider the fundamental viciousness of the Bill, whether we consider the way in which the Bill has worked so far, whether we consider the presence or absence of an emergency situation in our country today, there is no reason at all why we should lend any support of any description to the proposition which has been brought forward by the hon. the Home Minister. I therefore oppose this Bill. As a second best measure, I support the idea of the circulation of this Bill to elicit public opinion, because I am sure public opinion will almost unanimously—I say almost unanimously because some opinion can be manufactured by the resourcefulness of the other side,—

[Shri H. N. Mukerjee]

throw out the measure which has been laid before this House.

Shri Raghuramaiah: I was not surprised at the speech delivered by Mr. Hiren Mukerjee because I expected him like many of his tribe, to plead for a certain set of things: there should be no preventive detention, there should be no military, no Police.

An Hon. Member: He did not say that.

Shri Raghuramaiah: I said I had expected. I hope in the course of the debate he will make it clear what things he wants and what things he does not want. I have some experience. I come from a portion of the country where we have seen what their peace messages are. It is one thing to sit here and talk of democracy. In a way, it was rather amusing to me because day in and day out they quote not Great Britain and U.S.A., but certain other countries, Russia, China and what not. For a change perhaps, and it suits them well I agree, they quote today Great Britain and the United States. I may tell them that in totalitarian countries, in the Police States to which reference has been made by Mr. Hiren Mookerjee, it is not a question of preventive detention, but one of final dissection of human beings who oppose. Well we draw a line. There is a certain danger inherent in our situation to which Mr. Gadgil has already referred. Danger to the country need not be external. Mr. Mookerjee was insistent on asking what is the emergency. The emergency is there for those who want to see it. It is always there, and it will be there so long as there are parties in this country who are wedded to the undemocratic procedure, of cutting down the very roots of social progress by violent means. I am not for the moment talking of blackmarketeers. They are there. They come only as a handmaid to these violent parties. The blackmarketeer deprives a man of his food, and when a man is starving, our friends go about, exploit the situation, and create a situation where there is a mass resort to violence.

Mr. Mookerjee was asking "Could I go into the streets of Delhi, and attack a tram?" Well, he could if he uses the other arm of his movement. There are two forces there—the u.g., *i.e.*, underground, and another u.g., *i.e.*, upperground. The lower arm permeates very subtly into the masses, exploits the known and the unknown, the existing and the imaginary grievances, rouses the feelings of the people, prepares a nice platform and gathers them there, and then the other arm the great leaders appear on the scene and issue orders: "yes, attack", "no, do not attack" and so forth.

If it is merely a question of preventive detention without trial, I for one having been trained in the process of British jurisprudence, perhaps would not have agreed. But it is wrong to call this detention without trial. There is a trial, however summary it is. It is there. It is a detention, I would say, subject to judicial satisfaction. The High Court Judges or those qualified to be High Court Judges constitute the Tribunal. The man aggrieved, the detenu, has to go before the Tribunal, and the Tribunal has to be satisfied that there is proper ground for detention. And even then, the maximum period is fixed. I would like such of those as quote British precedents to read again Regulation 18-B. What does it say? Does it require the Home Secretary to appoint a High Court Judge? It does not say anything like that at all. The Home Secretary can appoint anybody he likes. He need not be a High Court Judge. And what is more—and this is very significant and all of us ought to know it—the Home Secretary in Great Britain is not bound to accept the advice of the Tribunal. But here we have made it obligatory so that there is nothing like the *zulum* of the Executive. Of course the procedure has to be necessarily summary.

Some people say, "Why not give the right to cross-examine? Why not give the right to appear by Counsel?" Well, that would make it a regular procedure. We wanted a summary procedure, and here I may say why the summary procedure is necessary. A regular trial requires proper evidence. You want witnesses. Many of the movements in which our friends have indulged themselves are such that there is no scope for proper evidence being brought forward.

I will tell you one instance. There is a certain gentleman against whom a detention order has been pending. He was actually sitting in the verandah of the Sub-Magistrate's Court. The Police van was waiting outside.

[MR. DEPUTY-SPEAKER *in the Chair*]

The Police who were outside had no personal knowledge of this particular person whom they wanted to detain. Everybody in the Sub-Magistrate's Court knew that this was the man who had committed loot, murder, and yet nobody did come forward and tell, because his home, hearth and life would be in danger if he came along and gave evidence.

You talk of the hardships of detenus. Yes, I know. But do you recollect the innocent wife in the Achampet Police Station? You attacked the Police Station. You took away the guns. Perhaps that is understandable on a battle front. But why did you break into the House and shoot the wife of the Police Sub-inspector? Why have you to do that. I can quote hundreds of instances, but I do not want to rouse the temper of the House. It is unfair to come here and give us big lectures on peace and democracy and world security and what not. Have you abjured violence as a matter of policy? I want a straight answer.

Mr. Deputy-Speaker: The hon. Member will address the Chair.

Shri Raghuramaiah: I am addressing through the Chair, Sir. I would like to know whether the friends on the other side have abjured violence. I would like to be told what country in the world, with a democratic form of Government, tolerates violence as a matter of agitation.

If this democracy of ours is to survive, as Mr. Gadgil said, it has to resort to new methods to meet new situations. There is no other country in the world today which is at the inception of democracy and which has such a band of marauders ravaging the whole country, working underground, upperground, trying to destroy the very foundations of state, exploiting all kinds of situations. There are only two courses open to us. Shall we efface those anti-social elements or shall we treat them as human beings and try to correct them. As a man brought up in British jurisprudence, I prefer the latter. I do not want to efface them. I want to give them a chance. At least, in course of time I trust they will become gentle members of society who will try to propagate their ideals on a higher moral and political level.

I am in a way puzzled. Why does the spokesman of the Communist Party alone of all people raise his thumb against this Bill. Is there a word about Communism in it? It is intended to protect the defence of this country, the security and the maintenance of supplies. Why should the Communist Party feel so much about it? Are they not for the defence of this country? Are they not for the security of this country? If they are—they say they are—if they are, why should they object to this? Or is it a mere question of procedure? Do they want a full trial? There is some catch in it. The more I followed the speech of Mr. Mookerjee, the more it struck me that he feels a particular sting, I should say, a guilty conscience. Why should he of all people invoke words such as wicked, unparallelled, devastating, all those strong expressions in the English literature? Why should he pour forth all those on, in Dr. Katju's words, this innocuous measure? Why should he pour out all that venom on this Bill? Why should he attach so much importance to this measure which he does and not to any other measure? I would like a straight answer to it. It is merely because of the procedure, because you are accustomed to British jurisprudence, you want a regular trial, or is it because you do not want this Bill at all? If you want a regular British trial, in matters of this nature I have already explained it is impossible. You cannot get evidence. We have given much more than what the situation warrants. We have incorporated provisions more liberal than those in Regulation 18-B. We have gone a long way which even the Mother of Parliaments in Great Britain has not gone. And then there is a grave emergency. The emergency need not be external. It can be internal.

5 P.M.

This country, Sir, has lost its freedom in the past, not by war from outside, but from internal dissensions, by the kind of smouldering which starts and spreads from under, the ground. We had lost freedom once that way. We do not want to lose it once again. And that is the only reason why we want to put this measure on the Statute Book. There is no other reason. There is no other secret. If the Communist Party are going to be law-abiding, if they have no intention to subvert the foundations of society, if they have no intention to jeopardise the safety, and the security of this land, then why should they object to this Bill? I am one of those who are not very happy about a measure of this nature. But like Mr. Gadgil I feel it my painful duty to support it because I see no other way of securing the peace and tranquillity of this country. The other day one gentleman who had visited China said that certain classes of people there have no legal existence at all. Law puts a ban on blackmarketeers, counter-revolutionaries, and all those who oppose the existence of the present regime. They have no protection whatever. Anyone can hinder, harass and torture them. The long arm of law does not extend to them. We do not want to follow

[Shri Raghuramaiah]

that procedure. That procedure may be all right in China. But we are a democratic people and so we cannot adopt that here. The only alternative for us is to cull out what is best in the democratic systems and find out some *via media*. A kind of trial, however summary it may be, will satisfy jurists. I would therefore once again emphasise that this is not detention without trial, but detention with a trial however summary and subject to the satisfaction of the judiciary. And we stick to this legislation only because of the impelling circumstances surrounding us.

Shri Meghnad Saha (Calcutta North-West): I listened with very great interest to the speech of the hon. the Home Minister. He has pleaded his case with very consummate skill and a good amount of learning. But I am afraid that as a lawyer he has presented only one side of the case. But there is one thing to which I may invite the attention of the House. After I was elected—I was elected on a non-party basis, because politics is not in my line—I got a number of letters from detenus who have been rotting in the different jails of Bengal, asking me whether I could take up their case and do something. Well, I have been reminded in this House by no less a personage than the hon. the Leader of the House that as a scientist I should take up the matter scientifically. I did that before that advice was given to me. I told my friends that before I could take up their case, I must first read all those charge-sheets and I insisted that those charge-sheets should be read in a very objective way to find out whether the persons who have been detained in jail without any trial for months or for years together, had really committed any offence or had planned to commit any offence which justified the application of this Preventive Detention Act to them. Myself and my other friends made a thorough study of about 400 to 500 charge-sheets. and what did we find there? All those charge-sheets opened with one set phraseology—just as the Hindu scriptures start with one common phraseology "नमो गणेशाय"—that "You belong to the Communist Party." That was the preamble to all the set of accusations. Then some time ago I think the High Court Judges found that this kind of charge that a certain person belonged to a certain political party could not be held as a sufficient ground for his detention. After the High Court had expressed this opinion, the cases of these detenus were not revised. Secondly, I found that in a large number of cases, most of the detenus did not belong to any political party. At least 50 per cent. of them were trade unionists, persons who belonged to some trade union organisation and had taken part in activities calculated to further the welfare of the members of that trade union. They had also been put in detention without any trial. I shall give you one example. There was one man by name Mr. Arvind Ghosh—not the philosopher of Pondicherry—but a young man who was an employee of one of the industrial firms of Calcutta. The charge against him was that he had organised a strike and had abused the Manager of that Firm. There was no other charge against him. And he had been put in jail for about three years without any trial. I throw this as a challenge to my hon. friend the hon. the Home Minister, who was then the Governor of Bengal. How could such a case be tolerated in any civilized country, that a man who has been a trade unionist and had committed no act of violence can be put in jail and be allowed to rot in jail for three years without any trial? Then I found that some powerful person was interested in that industrial concern, and in order to help his industrial friends, he had put in jail all these trade unionists. I found also other cases. The case of my hon. friend Mr. Tushar Chatterjee, who is a Member of this House has been already mentioned. He was under warrant for a long time, and had evaded the vigilance of the police for a long time. I know what kind of life these detenus were living. They say that they were living on Rs. 17 a month. You know that Rs. 17 per month does not even support a rat nowadays. After some time, the police got him and put him in the Dum Dum jail, the Bastille of India. The inside of the Dum Dum jail is not a father-in-law's house, and therefore his health was completely broken. I am asking my hon. friends opposite why this man who is a fine product of the Calcutta University, who holds a philosophy of life which is as good, I think, as any other philosophy of life, should be condemned to rot in jail for simply promoting trade union activities and for organising one particular political party. He is here now amidst us and you have all seen him, he does not look like a criminal, he does not look like a law-breaker, and I do not think he has ever broken law in his life.

Another case which has been referred to by my hon. friend Mr. Hiren Mukerjee is that of Ganesh Chandra Ghosh. I think I should elaborate a little on that case. In 1930 when the oppression by the British ran rampant all over the country, when the great leaders like Pandit Motilal Nehru and Mahatma Gandhi and a great many others were being put in detention without trial, it excited—as you may say—the misguided patriotism of a number of young school-boys.

They were hardly 15 to 16 years of age and they took the resolution of forming themselves into a militant party, raid the armoury, get themselves provided with arms, occupy Chittagong and provoke an armed rising. Well, they did raid the armoury and Ganesh Ghosh was one of them. He was a boy of 15 or 16 at that time. And after that, of course, the long arm of the British *raj* was there. Most of these revolutionaries were battered to death, many of them were killed and others died in jail. This man somehow escaped the British arm and after that he had been a member of the Communist Party, he had been doing political work and we find that there is not much against him. But after the day of independence in 1947, the charge has been brought against him that he had taken part in the Chittagong Armoury raid. Now what a tragedy it is? Should the man who had shed his blood for the independence of his country be accused of taking that particular line of action after independence had been won? I think he should be hailed as a hero instead of being allowed to rot in the Congress jail. Whatever may be the opinion of my friends opposite about him, the people of Calcutta had given the just verdict because he stood as a candidate for the Bengal Assembly and was returned with an overwhelming majority. I think the verdict of the people is a better verdict than that of my friends on the other side.

I do not wish to treat you with a long lecture. My friend, the Home Minister, is a very human person. He is flowing with all kinds of kind expressions and I know that he is a very kindly man. I have enjoyed his friendship over long periods at a time when he was also probably put in jail for this kind of activity. But I can tell him that he may be framing this particular Bill with the best of intentions. But this is not administered by Dr. Katju or Pandit Jawaharlal Nehru. The administration is in the hands of the district officers and other officials. The information is provided by what is called the Intelligence Branch. I do not know who has given the name 'Intelligence Branch' to it, but it is one of the most unintelligent branches of Government administration which I have found. I found when going through these charge-sheets that the charge against one of the persons—I forget his name, I think it was Abdul Razak Khan, to whom reference has been made—that he had somewhere said that he would raise an army in Manipur, with that army he would occupy Pakistan and after occupying Pakistan he would occupy Calcutta. Now this was the charge against him preferred by the great Intelligence Branch! I think the man who had given this information ought to have been sent to Berhampore. Now probably you do not know what I mean by Berhampore. That is the place where formerly we sent lunatics. So he ought to have been sent to the lunatic asylum, but our benign Government instead of looking into the charge had taken it as gospel truth and has clapped this man in jail for three years without trial.

Now, I give you another sample of the intelligence of this Intelligence Branch. One man was accused of going to Manchuria and procuring arms there and of getting arms into India and provoking an armed rising. If Dr. Katju reads all these charge-sheets, as I have done, he will find that all the facts are corroborated. Now the people who will act as the eyes and ears of this Government is the Intelligence Branch and the personnel of this Intelligence Branch is almost the same which we have inherited from the British times. We have inherited from the British times not only the Intelligence Branch, but their very unintelligent ways of reporting and we have inherited from them almost all their vices. Gentlemen, so in the application....Mr. Deputy-Speaker, I apologise to you for this lapse. The framers of this Bill may have the best of intentions, but knowing the Intelligence Branch, knowing the persons who would administer it, who would be responsible for operating this Bill, I know that it will be grossly abused. You may clap in jail one or two guilty persons, but 98 per cent. of the persons are innocent. Therefore, I think that it is not advisable to place this Bill on the Statute Book at the present time. We have started just on a new career in our politics. Most of the political parties have eschewed violence and they have contested the parliamentary elections, that is to say, they want to prove their worth by taking part in these parliamentary debates and thinking about the problems of the country according to their own philosophy. So I think a good gesture should be made and a Bill like this should not be tried to be forced upon the public.

[Shri Meghnad Saha]

I would only conclude by referring to another remark which had been made by my friend, the hon. Mr. Gadgil. I am sorry he is not here. In referring to the incidents which happened in Calcutta during the last two days, he had said that that was one of the justifications for introducing this Bill, and he had held the Communist party responsible for these demonstrations in Calcutta. I do not think he had read the papers very critically. These demonstrations were organised by the *Durbiksh Pratirodh Samiti*—Society for the prevention of famine—of which I am the Chairman. It had nothing to do with the Communist party. As a matter of fact, the Communist party had taken no active part in it and they have of course, only expressed sympathy. This is an organisation which has spontaneously grown among the citizens of Calcutta and people round about the districts in Calcutta and most of them are non-political people. The reason behind it is not any political philosophy, but it is the logic of hunger, and I would particularly impress on my friend, the Home Minister, about it. The people are dying in the villages round about Calcutta out of starvation, there is no food there and we find there is a conflict of opinion between the Bengal Government and the Central Government about the supply of food. So people are confused and it is hunger which has driven them to these demonstrations. It has nothing to do with the Communist party, and now my friend, Mr. Gadgil, has just told us that this was the reason why you want a Preventive Detention Act. I think that if the people of this country are allowed to suffer from hunger, if they have to take only one meal per day, if thousands of them die of starvation which can be prevented if the Government takes the right measures, then no amount of Preventive Detention Acts will prevent this country from going into a kind of revolution. If you look into history, you will find that it is hunger which has been at the bottom of most of the revolutions. Take, for example, the French Revolution. What was at the bottom of it? The French King and his nobles were having costly dinners in the Palace whereas the people of Paris were suffering from hunger. They had no bread, they had no meat, they had no food for days together. Then a group of them, mostly women, famished women, formed into a procession, marched to the Palace and they brought out the King forcibly and said that he must not live in luxury, he must come and see how they were dying of hunger in Paris on account of the extortion by his tax-gatherers and other officials. If you look to the Russian Revolution, you will find it was hunger at the principal cities, particularly Petrograd, which forced it. The first Revolution of 1917 had brought about the Bolshevik Revolution. If anybody thinks that these Calcutta demonstrations had been organised by the Communists, he is very wrong. It is hunger and famine which is at the bottom of these demonstrations.

I do not want to make a very long speech. I would appeal to the Treasury Benches that this black Bill should be dropped, a gesture should be made to the public. We should try to solve the problems of the country from an objective point of view. We should all put our heads together so that the problem of food, the problem of cloth and of shelter can be solved in the proper manner which I think is not impossible if the Government thinks rationally and does not try to force this kind of unpopular Bills on the public.

Dr. Krishnaswami (Kancheepuram): As I was listening to the speeches of the Home Minister and others from that side, I was reminded of a description applied by Henry Grattan to another Parliamentarian which eminently sums up the feelings which passed through my mind: "Great generosity of assertion, great thrift of argument, fury in the temper and famine in the phrase". The hon. the Home Minister in the course of his speech pointed out that we were a motley crowd, that we were a heterogeneous group, that we did not know our minds and that we ought not to oppose this measure because there were great necessities of state which compelled the Government to introduce it. But during his speech I wondered what the necessities were which influenced the Cabinet in resorting to this highly restrictive measure on our civil liberties. Of course, the hon. Home Minister is entitled to his opinion as indeed others are on this side of the House and I do not grudge him the satisfaction of thinking that hon. Members of the Opposition are not capable of giving expression even to a single constructive thought. It happens that Members on the other side assume that no good can come from Nazareth and therefore, any suggestion that comes from Nazareth is looked at askance.

Let me dispose of one or two arguments which have been put forward by Members on the other side. There was the first argument trotted out that so far as this Bill was concerned it was in conformity with the provisions of the Constitution. It has to be in conformity with the provisions of the Constitution! If it were not in conformity with the strict letter of the Constitution you would not have the power to enact this measure. The limitations on the Sovereignty of Parliament have been embodied in the Chapter on Fundamental Rights, and unless and until there was a provision authorising the enactment of a preventive detention measure it would have been impossible for the Government to have introduced any Preventive Detention Bill. But from this should we jump to the conclusion that circumstances justify the enactment of a preventive detention measure, that there is an emergency which authorises such a serious restriction on our individual civil liberties, and that therefore we ought to look not with alarm at the development that has taken place but rather extend support to the Government? Whatever might have been the merits of the constitution-makers in providing for a preventive detention clause in the Chapter on Fundamental Rights,—and into these I do not propose to enter—those who were the makers of our Constitution did not envisage the invocation of the right of preventive detention by the state on all and every conceivable occasions. The makers of the Constitution probably thought it right and proper that there should be a clause dealing with preventive detention in the Constitution because in the event of war or some other grave emergency the Government need not be handicapped by lack of power and thus be reduced to subserviency to the force of chaos and disorder. Therefore this provision was incorporated as a sort of safeguard to be availed of in the ultimate resort. But to suggest that today it is necessary to enact this measure, and to suggest that it is a simple measure, does not seem to be convincing at all to those who have given some thought.

It seems to me, that on all such occasions when there is a fundamental restriction on civil liberties it would be worth while re-examining some of the basic assumptions on which Democracy rests, unless and until you understand what the essence of civil liberties is you will not be able to understand why we are so much opposed to many features of this measure, why we are pleading with you to drop this measure, and why we are suggesting that this measure as such should not have been envisaged at all. History informs us that people have rebelled against this idea of preventive detention. Article 5 of the Petition of Rights in language which certainly bears quotation reads as follows. This was language employed, let me remind this House, by Members of Parliament in the days of the Stuarts:

> "Nevertheless against the tenor of the State statutes and other good laws and statutes of your Realm, to that end provided, diverse of your subjects have of late been imprisoned without any cause shown; and when for their deliverance they were brought before Your Justices by Your Majesty's writ of *habeas corpus* to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detention, no cause was shown but that they were detained by Your Majesty's special command signified by the laws of Your Privy Council, and yet were returned back to the several prisons without being charged with anything to which they might make answer according to the law."

The men who protested against preventive detention were on the side of liberty and their reason for protesting thus was simple. Firstly, it is opposed to all canons of natural justice that we should detain a man without trial. Secondly, and this is an important point which should be borne in mind by administrators and those interested in the growth of democracy, it often happens that when you introduce such restrictive measures there is a great danger of the sins of one group being utilised for diminishing the liberties of others and for constructing a gigantic precedent for diminishing the liberties of all. That is why, irrespective of the political differences that divide us—and there are many differences that divide us from one another—we, on this particular measure, have come to the view that we ought to stand together and not be divided and speak with different voices.

This idea of preventive detention has to be examined at greater length. We have to realise that this is the third time that Parliament is called upon to enact this measure. In 1950 we enacted the Preventive Detention Act. In 1951 we amended it, though not in material particulars, and now in 1952 we are called upon further to extend its life by another two years. How long is this state of emergency to continue? Would we ever reach a normal state of affairs? Would it be possible for us to envisage a day when the Preventive Detention Act will not be on the statute book at all? It often happens that when repressive measures are enacted there is a tendency on the

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part of officialdom to think that they are certainly laws which ought to be there on the statute book and if they are not on the statute book, the security of the country and the security of its component parts would be jeopardised. On this matter the time has arrived when we should review the working of the Preventive Detention Act and find out whether we should not have resort to more normal legislation. Imagine for a moment what the essentials of preventive detention are. I would beg of my hon. friends to apply their minds to this aspect of preventive detention carefully. The *raison-de-etre* of preventive detention is that it is preventive in nature and that materials on which the action is taken admittedly fall short of proof and are merely grounds of suspicion. How is this apparatus of suspicion built up? The hon. the Home Minister knows as well as we do that this apparatus of suspicion is built up either on the report of a police spy or on the report of agents provocateurs or on the report of so many other busybodies who might be taking a prominent and not altogether healthy interest in the victims. A formidable *dossier*, as it were, is built up day after day by many people who affect an interest in the welfare of the state, but who are more interested in bringing the individual to book. The file mounts up and one fine morning the file goes to the District Magistrate and then the detention order is served on the detenu, who does not know the grounds on which he is actually detained and has to wait for a long while before a few of the grounds are made known to him. The highly restrictive nature of detention will be realised if we consider some of the Articles of our Constitution and find out how far preventive detention curtails the liberty of ordinary citizens. Article 22(2) of the Constitution ensures the benefit of production before a judge in the case of a normal citizen accused of crime in a court of law. This freedom is denied to a detenu. This article further requires the disclosure of the grounds of arrest to the person arrested, but this is also denied to the detenu. Moreover, Article 22(6) enables the Government to refuse disclosure of the grounds to the detenu in public interest, and thus the benefit of the provision made in Article 22(5), namely, that all the grounds should be revealed to the detenu, is virtually taken away in most if not all cases. No one knows what public interest is, but the hon. Minister knows that if in several cases it is necessary in public interest not to reveal the grounds of detention to a detenu, and the authorities who pass the detention order do not reveal the grounds of detention, the result would be that the detenu would be considerably handicapped in making representations, when the time arrives, before the Advisory Board or a court of law in order to get the order quashed on the ground of its being *mala fide*. This morning, as I was listening to the Home Minister, I was wondering whether all these difficulties that we envisage are really swept away as a result of the amendments that have been suggested in the new amending Bill. After having examined the Bill with some care, let me affirm that in many respects it is not an improvement on the old Act and I shall substantiate my statement by quoting chapter and verse.

What is the safeguard that an individual enjoys in normal times when charges are made against him? He is brought before a court, tried, and if found guilty convicted. But under the Preventive Detention Act, we have only the safeguard of an Advisory Board and that safeguard is illusory, because there is no mandatory duty on the part of the Government to place all the materials before the Advisory Board. If there is no such requirement, how is it possible for the Advisory Board to arrive at a conclusion which is fair to the detenu and just to the State? It may be pointed out that it is not necessary to reveal all the grounds and that if some grounds are revealed it is quite enough and Government may place only such materials as they think fit before the Advisory Board. But would it not be legitimate to point out that if there are undisclosed grounds, there would be a natural feeling of suspicion on the part of the Advisory Board and therefore the chances of the detenu being released or of his case being heard properly are much less than if all the grounds are made available to the Advisory Board? Great play was made of the detenu being given under the new Bill, right of making a representation in person to the Advisory Board, even this is an illusory advantage, because he has no right to demand a full disclosure of the grounds nor cross-examine those who have deposed against him and therefore cannot convince the Board of his innocence, nor is there a duty on the part of Government to disclose all the reasons which have led them to take action against an individual. May not the suspicions arising from undisclosed grounds powerfully influence the Advisory Board in favour of keeping the man under detention?

The other point to which I want to advert is this,—and here I thought that the Government were on the right track—I am referring to the new procedure that has been envisaged, namely, that if a magistrate or any other officer detains an individual, he should within two weeks report to the State Government and the State Government should confirm the detention. As I listened to the Home Minister I thought that here was a valuable right given to the detenu, because if the State Government had the opportunity to apply its mind afresh to this question, a very valuable right was undoubtedly granted to the detenu and many cases of injustice might be rectified by the Government re-examining the cases. But what do we find in sub-clause (3) of clause 3 of the Act. It says:

> "When any order is made under this section by an officer mentioned in sub-section (2) he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the necessity of the order."

What does this means? It implies that the officer need report only such materials as in his opinion should be brought to the notice of the State Government. All that is necessary is for him to sum up his impressions and give out only such information as in his opinion is necessary for putting the individual in detention. If what I have described is done, that by itself would place the State Government in a disadvantageous position, for the State Government would not be in a position to review the whole matter and if it does not have all the various factors which have weighed with the officer in passing the detention order, how is it possible for the State Government to apply its mind afresh? This idea of confirmation which has been introduced in the new Bill is ostensibly designed to help the State Government to apply its mind afresh. This in itself is a salutary check on official excesses, because the State Governments can call for the evidence and then examine the whole thing afresh. But as it is, as the section is worded, the magistrate who passes the detention order is under no legal duty to disclose all the facts which operate in favour of the detenu. All that we insist on is that he should make a report giving to the State Government the reasons for his having arrived at a particular decision that X should be detained for a particular period and the grounds on which he thinks he should be detained. This is indeed a very serious limitation on the State Government's capacity to find out whether the detention order was based on valid reasons or not.

Let me, however, analyse this section a step further. The new sections that have been inserted relating to the Central Government's being apprised of the facts of the case have to be examined more thoroughly. What is the duty cast on State Governments? The State Government has a duty only to show the necessity for the detention order, not the full facts relating to the detenu. That is how I read this section and if the hon. the Home Minister thinks differently, I should like to have a clarification of this particular section. If you read that section it is stated there very clearly that only the necessity for the detention should be shown to the Central Government. The section reads as follows:

> "When any order is made, or approved by the State Government under this section, the State Government shall, as soon as may be, report the fact to the Central Government, together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government have a bearing on the necessity of the order."

What was the purpose and intention of making the State Government report to the Central Government. Is the Central Government a post office; is the Central Government merely to receive reports from the State Governments? If that is not the intention, has a duty been cast on the Central Government to go into the matter or apply its mind afresh?

Nor is there any provision in the new Detention Bill that the detention order should not continue in force after a stated period, unless approved by the Central Government. Were there such a provision in the new detention amendment bill, I could have understood that the Central Government would have been in a position to certainly review the facts as they were and certainly the detenu's case would be examined afresh. Even if it be on a high administrative level, where questions of satisfaction are of a subjective character, had provision been made in the Detention Bill that the Central Government or the State Government should have the opportunity of re-examining these questions thoroughly and fully the hardships of detenus could in some measure have been mitigated and there would have

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been some satisfaction to us that the detenu has a chance—though a remote chance of having his case considered afresh.

Let me, analyse this provision a step further. It does not appear that the State Government is bound by the opinion of the Central Government, if the latter considers that there are not sufficient grounds to confirm the detention order. Therefore, there are no real safeguards for the detenu. Has not the time arrived—and this is a question which I should like to put forward in all earnestness to members of the Treasury Benches—when we ought to revise the rules relating to the hearing of detenus by the Advisory Board? After all the advisory boards do not meet in public. There is not that glare of publicity and there is not the opportunity to report the proceedings of each advisory board. Public interest is adequately safeguarded, according to the judgment of the Government which has enacted this measure, by our having these advisory boards to review the matters fully and to give an opportunity to the detenu to have his legal representative. But in order that this procedure might be useful, I suggest that the Central Government or the State Government, whichever authority has been responsible for detention, should supply to the detenu full grounds of his detention and not just partial grounds, because if partial grounds are given, there would be no possibility of the detenu making valid representation. What public interest is in peril that we should put such a high premium over it as to say that even the Advisory Board should not be apprised of these facts.

It has now been held by courts of law that even speeches can be prejudicial acts and a man may be detained merely on the strength of the speeches that he has delivered without anything more and in such a case there is not even a duty to disclose offending passages. Only the other day, when I was reading the case of Ram Singh If the State of Delhi. I came across a passage in the judgment of the Supreme Court which opened my eyes to the seriousness of the Preventive Detention Act. Here is a case in which an individual is charged with having delivered a seditious speech and is detained by the authorities and when he is detained the offending passages are not even read out to him and the court finds itself powerless to enquire into it because, as the judges point out, it is not for them to find out what the offending passages are; it is only for the authority to be satisfied that what he has delivered is a speech with a prejudicial intent. Against this procedure of our Government Mr. Justice Bose valiantly protested and his dissenting judgment will rank high in the history of liberty and will go down through the corridors of time as a remarkable protest against official tyranny and official secretiveness.

Dr. Katju: Did my hon. friend say 'dissenting judgment'?

Dr. Krishnaswami: The dissenting judgment of a Supreme Court Judge is often more important than the majority judgment of the Supreme Court because it opens our eyes to the lacunae in our law. In this particular matter, I crave the indulgence of my hon. friend the Home Minister to whom I shall read out the relevant passage in Mr. Justice Bose's judgment. Mr. Justice Bose remarks thus:

> "The next point is this. When a man is told that his speech excited disaffection and so forth, he is being given the final conclusion reached by some other mind or minds from a set of facts which are not disclosed to him. If the premises on which the conclusion is based are faulty, the conclusion will be wrong. But even if the premises are correct, the process of reasoning may be at fault. In either event, no representation of value can be made without a reasonably adequate knowledge of the premises.
>
> Envisage for a moment the position of the Board. In the ordinary course, it would have before it a speech with the offending passages in full, or at any rate the gist of them. From the other side it would have a bare denial, for that is about all a detenu can say in answer to the grounds given to him when he is not told the premises on which the conclusion is based. In most cases, that sort of representation would have very little value. Consider this illustration. Let us assume the detenu had spoken about Hindus and Muslims."

Mr. Deputy-Speaker: It is not the practice in this House to quote long extracts.

Dr. Krishnaswami: I am only giving the gist of it.

Mr. Deputy-Speaker: Already it is long. The hon. Member may refer to one or two lines here and there. A whole book cannot be quoted.

Dr. Krishnaswami: I have been always reluctant to quote from any authority and if I have been led to quote this particular passage, it is with a view to bringing home to the Home Minister the lacunae in the Preventive Detention Act. But let me quote one other passage which would illustrate the point that I am seeking to establish.

Dr. Katju: From the same dissenting judgment?

Dr. Krishnaswami: Yes. Mr. Justice Bose said:

> "I am anxious not to be technical and I would be averse to an interpretation which would unnecessarily embarrass Government but I do conceive it to be our duty to give a construction which, while falling strictly within the ambit of the language used, is yet liberal and reasonable, just to the detenu, fair to the Government. And after all, what does a construction such as I seek to make import? It places no great or impossible strain on the machinery of Government. All that is required is that the authorities should bestow on the cases of these detenus a very small fraction of the thought, time and energy which the law compels in the case of even the meanest criminal who is arraigned before the courts of this country. The fact that there is absent in the case of these persons all the usual safeguards, the glare of publicity, the right to know with precision the charge against him, the right to speak in his own defence is all the more reason why Government should be thoughtful, considerate and kind and should give them the maximum help."

I suggest that in cases of preventive detention, where even the offending passages' are not revealed to the detnu, he suffers from a very serious handicap and he cannot make valid representations to the Advisory Board. From all points of view, even from the point of view of public interest, has not the time arrived when we should at least have a full disclosure of the facts made to the detenu and to the Advisory Board, so that he might be in a position to clear himself to the satisfaction of the Advisory Board?

We were told, that we were passing through a very critical period, that there were very many dangers facing our country. I hold a very different view. After all, we have certainly passed through the worst period of our national career and we have now emerged into a period of relative calm and tranquillity. In the whole of South East Asia I venture to submit that ours is possibly the only normal administration; the general elections have been held without any degree of disturbance and with minimum cost to social security. I do think that this is the most propitious period, if even there is one, in which the Preventive Detention Act should be repealed it is this and this alone.

Some reference was made to Saurashtra and Rajasthan. I do not understand what exactly the Home Minister meant to convey by referring to Saurashtra and Rajasthan. I do not know whether it would be possible to control the disturbances—assuming that they exist—by an application of the Preventive Detention Act. If the Home Minister comes to the conclusion that Saurashtra cannot be controlled except by an application of the Preventive Detention Act, why should he not have its application narrowed to one small region instead of having it extended to the whole of India? That is a point of view which he can consider. It is no use trying, as I said at the outset, to utilize the sins of one group for the purpose of diminishing the liberties of all. For if once we compromise on this matter and diminish the liberties of one group after the other, we will soon become totalitarian in our outlook. The hon. the Home Minister gave an assurance this morning that he would undertake not to apply this Act against political parties or other individuals. I accept this assurance as very sincere and high-minded. But I ask my friends whether these assurances are worth anything. What counts is the actual text of the Bill and Bill alone. And if we have forgotten this elementary lesson, we have forgotten our duties as legislators. The hon. the Home Minister knows that the Bengal and Bombay ordinances were passed in order to deport certain 'noisy Frenchmen who were causing a great deal of trouble to the native settlements and the country' in those difficult times. But eventually these ordinances lent themselves to the interpretation that this could be employed against all persons. And the authorities of the succeeding period took advantage of that ordinance for deporting many of our people.

Therefore if you are introducing this measure—and I do not see the necessity for introducing this meas-

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ure—but if you are introducing this measure, consider again the safeguards that you have provided, reconsider again whether the time has not arrived today to see that the safeguards are increased and that there is greater justice done to the detenu. The scales have hitherto been weighted more in favour of the executive rather than in favour of the subject. The time has arrived when the scales should be weighted in favour of the detenu. Therefore it was that I suggested that the Central Government and the State Government should have all these facts disclosed to them, so that they might be in a position either in the initial or in the appellate stage to review all the facts relating to the detenu and, by reviewing them, see to it that they release them where no necessity exists for their detention.

I should feel happy if this measure is withdrawn. But if you are not prepared to withdraw this measure, consider at least these amendments and the safeguards carefully so that, as a result of liberal safeguards being inserted, we might have a chance of restoring in some small measure the liberty of the subject.

Shri N. P. Nathwani (Sorath): The hon. Member, Shri Hiren Mukerjee, at the outset of his speech generally referred to various judgements of the Supreme Court in regard to the nature of preventive detention. Now, in the various judgments delivered by the Supreme Court the learned Judges have made some observations on the nature of preventive detention. They said, what is generally admitted namely, that the power of preventive detention is generally repugnant to democracy and that it is not generally used unless there are special circumstances or unless there is an emergency. But they did not say and they could not say that in fact there did not exist in the country any emergency. On the contrary they have observed on several occasions that it is for the Parliament, and for the Parliament alone, to decide whether in fact an emergency exists and whether the Preventive Detention Act is necessary or not.

All the hon. Members sitting on the opposite side have argued, and some of them very vehemently, that at present there are no circumstances in the country justifying the continuance of this measure. I come from the State of Saurashtra where so far as the maintenance of law and order is concerned a very menacing situation developed; and the situation which developed and which still lingers on there is not peculiar to the tiny State of Saurashtra. I understand a situation, on similar lines, more or less the same, is developing in other States, namely Rajasthan and PEPSU. I would therefore like to recount briefly the circumstances under which a grave danger to the maintenance of law and order developed in Saurashtra, and how the Government was forced to resort to the Preventive Detention Act to control the situation and how the circumstance still exists there to justify the continuance of this measure. It is only against this background that we may have a proper perspective to consider the necessity of continuing this Bill.

6 P.M.

The hon. Members have heard about the dangerous criminal activities carried on by a gang of dacoits headed by the notorious dacoit, Bhupat. He and his associates started their career of crime in 1949 but what is important to be noted is the fact that in the beginning their only object in committing robberies and dacoities was loot. There was no political purpose behind these dacoities. But soon thereafter, they obtained valuable supporters in some of the *girasdars*. Now the House knows something about the *girasdari* system. *Girasdars* are a class of land-holders. During the old regimes, they occupied a position of special advantage; they are related to the princely order by ties of blood. So far as land was concerned, they enjoyed special rights. But the tenant class was in a sorry plight. With regard to possession, the tenants were at the absolute mercy of this class of landholders and having no other means of livelihood, these tenants had to yield themselves to various exactions which their masters chose to impose upon them. This was the condition when the new State of Saurashtra was formed in the year 1948. The Government, therefore, immediately addressed themselves to the task of giving some relief to this tenant class. They began to proceed to fix the shares of the tenant class and this land-lord class. They also abolished various taxes which amounted in all to 30. This created a lot of resentment and bitterness among this landlord class. They began to take law into their hands; they began to oust the farmers and they began to burn their crops etc. But the Government took firm steps to check these elements, with the result that this landlord class did not succeed in ousting the farmers. This made the feeling of resentment go deep among this class, with the result that some of their leaders thought of a very ingenious plan of utilizing this gang of dacoits.

Then with the support of some of the leaders of this class, Bhupat and his gang entered on the second phase of their criminal activities. Now their object was to terrorize the agriculturists, to coerce the Government into abandoning their land reform policy, if not that at least in whittling down the policy of land reform so as to make more and more concessions in their favour. Ultimately in or about the middle of 1951, this question was settled. When the *girasdars* realized that the Government was firm and was determined to implement its policy of land reforms they joined and tried to co-operate with the Government and ultimately the land reform Bill was passed as an agreed measure. This apparently set at rest the cause of dissent. But then again this action of some of the leaders of the *girasdars* was not liked by a section of their community. Again there were some ex-rulers, their supporters and their *Bhayats* who had their grievances against the Government. They felt that all power and influence had left them overnight. They felt that these commoners, which the Congress people are, were perhaps not fit to govern. It was perhaps a false sense of pride of caste or rank on their part.

With the approaching general elections, therefore, some of these feudal elements and some of the ex-rulers thought that it afforded a good opportunity for them to contest the elections and with the support, if necessary of other parties, to win the elections and to form a Ministry. In this plan of winning the elections they thought of utilizing this gang of Bhupat and his associates. With their support started the third phase of the activities of this gang of dacoits. Thereafter there was a wave of crime culminating in the assassination of 12 persons in Kharachia on the night of 21st January 1952. The Chief Minister Shri Dhebar in whose constituency this particular village is situated was to go there and address the meeting. Fortunately, he could not do so. Soon after the meeting was dispersing there was a raid, there was shooting at random and 11 persons were murdered. During this period, between September and January when the election campaign was carried on by all the parties, there were 16 raids and about 28 murders committed in this manner. The object was twofold. Firstly it was to discredit the Government and to tell the people that the Government was not competent to maintain law and order. The second object was to terrorize the people not to vote for the Congress. They knew that the people were overwhelmingly behind the Government and that they wanted to support the Congress. Therefore, the only thing they could do was to terrorize them not to go and vote for the Congress. In this latter object, I may say they succeeded in a large measure at first. In some parts this terror continued to last even to the end.

May I say about my personal experience? In my constituency in the rural area of Jayatpur till the end neither myself nor the Congress candidate for the State Assembly could get persons among the villagers willing to act as our polling agents. The reason was not that they were not with the Congress; they told us that they were with us, but they were afraid of being victimized by this gang of dacoits when they knew that this gang of dacoits was supported by an influential section of the people. That there was a political motive behind these crimes, robberies and dacoities committed during this period becomes evident from the notes of intimidation which were left by the decoits after committing these offences. I shall refer to one or two such notes to make it clear to the House that there was a political motive behind this crime. May I read the translations of some of the *jassachithis* as they are called in Gujarati? There was a dacoity committed on 23rd September 1951 at Lilakha where two agriculturists were murdered. It said:

> "These murders were committed with this purpose that we came to know through our correspondent that hon. Shri Dhebarbhai Saheb is going to come for giving a lecture for election propaganda in the adjoining village.........so we thought we need not present money but let us send Dhebarbhai two cocoanuts (meaning two human heads)".

They further say:

> "We have decided to murder persons from each village which will not vote in favour of us but will vote in favour of the Congress ......Now we shall freely murder them (people of Saurashtra) if they will vote for them (Congress Ministers.)".

> "According to our Code, it is an offence to vote for Dhebar, Bhimji Ruda or any Congress candidate and the punishment for the offence is death. So, if any one votes for the Congress, he will be liable to punishment of death."

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There are other circumstances also which go to show that there were powerful sections of the Princely order and feudal elements to support this reign of terror. For instance, if you look at the quality and quantity of the arms and ammunition which was used by these dacoits, it becomes clear that they must have been supplied by some ex-rulers or some Members of the *Girasdari* association. They have used ·303 rifles; they have also used pistols of prohibited bore, pistols which are generally not used. Most of the cartridges were manufactured in Government arsenal and they are not available to any persons unless they happen to be rulers. Ex-rulers are exempt from the operation of the Arms Act and they can get as much quantity of these arms and ammunition as they liked. (*Interruption*).

Mr. Deputy-Speaker: Order, order; why this running commentary?

Shri N. P. Nathwani: That was the position in Saurashtra in December 1951 and January 1952. Some information began to trickle; Government could not get any definite information about the whereabouts of this gang. Government took all steps to curb this element. They increased their police force. They requisitioned extra armed forces from the neighbouring State. They declared a reward of Rs. 50,000 for giving information about these dacoits. They also obtained the services of several experienced and able police officers from other States, but still these dacoits remained at large. Why? Because they were backed, they were supported, and they were harboured by these powerful people. Now, it was in these circumstances that Government had to act under the Preventive Detention Act.

Sometime a question is asked why do you not proceed against them in a court of law, if you have got evidence. Now, by this time, some information has reached Government about the complicity of some of the Members of this association, and some of the ex-rules or their *Bhayats*. You must bear in mind one thing. People are still afraid and will continue to remain in fear to give evidence in an open court of law against some of these ex-rulers. They know very well that this is a powerful and influential class and is capable of taking vengeance even after the lapse of considerable time. It is in these circumstances that Government could not proceed against them in a court of law. After the elections were over, Government took steps and put in preventive detention all these elements. What was the effect? Mark, with the arrest and detention of several of these persons, the situation at once improved. One of the associates of this gang was killed very soon. One other associate was arrested. Bhupat and the remaining dacoits had to run away to Pakistan. We have only scotched the trouble; we have not killed it. There are other dangerous criminals still at large. The persons who were at the back of these dacoits are powerful and influential people. They will not take their defeat lightly, though these elements are lying low for the time being. It is therefore imperative, it is therefore absolutely necessary, to watch the situation in Saurashtra very carefully, lest there might be another wave of crime only to belie the assertion that these persons who are now in detention were at the back of all the crimes.

There is an amendment for circulating this Bill for eliciting public opinion. May I say that, so far as my State is concerned, even during the election times, even two or three months prior to the taking of action by the Government, people clamoured that some kind of stern action should be taken against these powerful persons who were at the back of all this trouble. People knew; they can sense; they can understand that these dacoits who used to come in jeeps and cars, who were dressed impeccably in a spotless manner, could not be so unless they were supported by some powerful persons. People have welcomed this action on the part of the Government. They have breathed a sigh of relief so far as my State is concerned. There cannot be, and there is not any question of eliciting public opinion. People have approved it.

I have narrated these circumstances at some length to show the situation which we have had to face in the past, and which we are likely to face in the future. Again and again the question is asked by Members opposite whether there is any parallel, any counterpart of the Preventive Detention Act in any other country. May I ask them, through the Chair, whether there is any party, any group of individuals existing in any other part of the democratic world, who with a view to achieving their objects, not merely resort to some violent methods, but also resort to utilising professional dacoits? If such a situation were to be found in any other democratic country, I have no doubt that the people will give power, and the Government will arm themselves with power as drastic as, if not more drastic than, the Preventive Detention Act.

In this connection, may I point out the position which prevails in the United States of America. It is a great democratic country. I know there is no Preventive Detention Act in the U.S.A., but there are certain measures which have been recently adopted by the Executive and the Legislative branches of the Federal Government.

Babu Ramnarayan Singh (Hazaribagh West): On a point of order, Sir. The hon. Home Minister is expected to listen to the debate, but he is indulging in conversation with other Ministers.

Mr. Deputy-Speaker: I take it that it is said in good humour. Let us not think that the Home Minister should be constantly looking at the Member. I do not know if that position is taken, how far the hon. Member himself was hearing all this.

Babu Ramnarayan Singh: I was hearing it.

Shri Jawaharlal Nehru: Sometimes I have to look away from the hon. Member opposite too.

Shri N. P. Nathwani: May I refer to the measure which has been recently enacted by the U.S.A. Government? It is known as the Non-Communist Affidavit Requirement of the Labour Relations Act of 1947. Before I deal with the provisions of this Act, the hon. House will bear in mind that the U.S.A. is not at war with any other country. There is no urgency, there is no emergency whatsoever. Still, they have passed a measure which encroaches in a very serious manner on some of the most fundamental rights, what we call civil liberties. The Act requires that any officer of any representative labour union must not belong to a Communist group or to the Communist Party. He must not associate himself with that party or with that organisation. The hon. House will remember that the Communist Party is not banned in the U.S.A. There is no prohibition against Communist organisations. Still, this Act requires that any person who happens to occupy a position in a labour association, must not belong to the Communist group. He must not associate himself with any Communist association. If he does so, then that Association loses its right of representing that particular union. Now, may I ask the hon. House what is this? It denies the right to freedom of thought to an officer. Mind you, he need merely say: "I believe in Communism. I belong to a particular association". There might be no intention on his part to commit any violent act. He does not prepare himself to do such act. Nothing is found against him except this fact that he is a member of an organisation known as a Communist organisation.

Then, may I refer to other measures? Under the Loyalty Order issued by the President, power is delegated for listing by the Attorney-General of numerous organisations without any hearing whatsoever. Now, the Attorney-General has the power to say whether particular institutions or associations are subversive or not. Mind you, that organisation is not given any chance of being heard. They are not supplied or furnished with any particulars. No opportunity is given to them to confront the various witnesses. But, under this power given to the Attorney-General, that organisation is declared a subversive organisation, and any person who happens to be a member of that organisation loses his private or public appointment in certain circumstances. I have referred to these instances to show that civil liberties do not exist in the air. They are conditioned by the peace, tranquillity, and absence of disturbing or violent methods in society.

Now, some of the speakers on the Opposition said that the powers given under this Bill were arbitrary, that there were no sufficient safeguards, that it was liable to be misused, and that, in fact, it was misused. Now, may I deal with the first question as regards the Bill giving wide powers to the Central Government, to the State Governments and other officers mentioned in the Bill? It has been suggested several times that power should not be given to the States or to the officers concerned who are made the final judges of the necessity, whose satisfaction is final. It has been suggested that the Act should make some provision, should lay down some objective standard so that the Court can determine whether there is sufficient compliance with the requirements of law and that the satisfaction of the Government or the officer should not be considered as final. But, now, it is not possible to lay down any objective standard of conduct in relation to preventive detention except laying down a conduct which tends to achieve or avoid a certain objective. I am fortified in this view by the observations made by the Late Chief Justice of India. May I refer to a passage in the case to which the hon. Member Shri Gopalan who is not present now

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in the House has lent his name? The observations occur at Page 121:

> "Section 3 is also impugned on the ground that it does not provide an objective standard which the Court can utilize for determining whether the requirements of law have been complied with. It is clear that no such objective standard of conduct can be prescribed except as laying down conduct tending to achieve or to avoid a particular object. For preventive detention action must be taken on good suspicion. It is a subjective test based on the cumulative effect of different actions, perhaps spread over a considerable period. As observed by Lord Finlay in The King V. Halliday, a Court is the least appropriate tribunal to investigate the question whether circumstances of suspicion exist warranting the restraint on a person.
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> "The contention is urged in respect of preventive detention and not punitive detention. Before a person can be held liable for an offence, it is obvious that he should be in a position to know what he may do or not do, and an omission to do or not to do will result in the State considering him guilty according to the penal enactment. When it comes, however, to preventive detention, the very purpose is to prevent the individual not merely from acting in a particular way, but, as the sub-heads summarized above show, from achieving a particular object. It will not be humanly possible to tabulate exhaustively all actions which may lead to a particular object. It has, therefore, been considered that a punitive detention Act which sufficiently prescribes the objects which the legislature considers have not to be worked up to is a sufficient standard to prevent the legislation being vague."

So much about the argument that satisfaction of the State Government or any other officer should not be considered final.

Then, I go to the next question whether there are sufficient safeguards in this Act. Now, the critics ignore that provision has been made in the Act to see that the orders passed by the officers concerned are reported forthwith to the State Governments.

Mr. Deputy-Speaker: Is the hon. Member likely to be long?

Shri N. P. Nathwani: Yes, Sir. I will take about ten minutes more—ten or fifteen minutes more, Sir.

Mr. Deputy-Speaker: The House is impatient. The House will now adjourn.

The House then adjourned till a Quarter Past Eight of the Clock on Monday, the 21st July, 1952.